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ACJC

December 17, 2018

Candance Moody, Executive Director
Advisory Committee on Judicial Conduct
P.O. Box 037
Trenton, New Jersey 08625

RE: ACJC 2017-222
In re Marvin Adames, J.M.C.

Dear Ms. Moody:

Please consider the following as a supplement to Respondent's answer in this matter. The representations made here are submitted as additional information related to the denials in Respondents answer for paragraphs 23 through 27. Respondent's verification includes both the answer and this supplementary filing.

INTRODUCTION

Respondent's understanding of the law related to contempt of court on December 16, 2016, December 23, 2016 and January 3, 2017 is relevant to this Committee's review. On those dates, Respondent believed that Rule 1:10-1 is a vital function of the Court. It can be invoked when the Court must take immediate action to maintain control and/or vindicate the Court's authority in the face of an open and blatant challenge.¹

¹"We have described it as an extraordinary power, to be exercised sparingly against those whose conduct "has the capacity to undermine the court's authority and to interfere with or obstruct the orderly administration of justice[.]" [Citation omitted.] As Justice Handler succinctly stated, "there are occasions when this inherent authority must be exercised both swiftly and summarily in order to ensure obedience to court orders and respect for court procedures." [Citation omitted.]. Amoresano vs. Laufgas, 171 N.J. 532, 549-500(2002).

Respondent further believed that, under New Jersey law, contempt in the face of the court involves the following characteristics:

1. Contempt in the face of the court cannot be committed negligently or recklessly but must be the product of purposeful conduct by the contemnor. This is why the Rule 1:10-1(c) requires a warning to the defendant prior to a finding of contempt. A continuation of disruptive conduct after a warning raises the inference of purposeful conduct.
2. Contempt in the face of the court is a summary proceeding. There is no right to counsel² or a trial by jury for contempt in the face of the court. No detailed fact-finding inquiry is necessary because the trial judge has personally perceived the acts constituting contempt as they occurred.³ In terms of procedural protections, defendants have the right to the presumption of innocence, the privilege against self-incrimination, the right of cross-examination, proof of guilt beyond a reasonable doubt, and the admissibility of evidence in accordance with the rules of evidence.⁴
3. Contempt in the face of the court is a common law offense that survived abolition under N.J.S.A. 2C:1-5(a) as a result of N.J.S.A. 2A:10-1. Sanctions are capped at 6 months jail and/or \$1000 fine (See In re Buehrer, 50 N.J. 501(1967))
4. Judges must prepare a certification of facts if there is a contempt finding.
5. Defendants in a contempt proceeding have the right to bail if there is a question as to whether they will appear for future court events.
6. There is an automatic stay of sanctions for 5 days to allow the contemnor to appeal.
7. Under Canon 3, Rule 3.4, a New Jersey judge has a non-delegable duty to maintain an atmosphere of order, decorum and austerity in the court room. This is a critical component of maintaining public confidence in the judiciary. Respondent believed that the defendant's continuous disruptive behavior in open court threatened the dignity and decorum of the court session.

²In re Oliver, 333 U.S. 257(1948). Note despite this holding, Respondent appointed counsel for the Defendant.

³In re Yengo, 84 N.J. 111, 123(1980).

⁴In re Yengo, 84 N.J. 111, 119-20(1980).

RESPONSE TO DENIAL IN PARAGRAPH 23

The determination to require bail in the amount of \$10,000 with 10% cash option in this matter is unrelated to the underlying charges which brought the defendant before the Court. Respondent had determined there was probable cause to believe that the defendant had committed contempt in the face of the court. Due to concerns about the defendant's mental health, Respondent deferred in holding a summary hearing under Rule 1:10-1. The bail set for the Defendant on December 16, 2016 is permitted under Rule 1:10-1(e).⁵

RESPONSE TO DENIAL IN PARAGRAPH 24

Respondent never attempted to involuntarily commit the defendant on December 16, 2016 or at any other time. Respondent's understanding of the law of direct contempt is that contempt in the face of the court can only be committed purposefully. Respondent's actions were based upon his sincere concern that the defendant's misconduct in the face of the court had not been purposeful but rather was the product of a psychiatric condition. To evaluate this possibility, Respondent utilized the authorized procedures available in the Newark Municipal Court.

The Newark Municipal Court maintains a judicially approved partnership with the North Community Solutions Program [<https://www.courtinnovation.org/programs/newark-community-solutions>.] The practice in the Newark Municipal Court is to refer defendants with psychiatric issues, drug addiction, veterans, certain first offenders, indigents who cannot pay fines and others for social services. Respondent uses this program every day to address a wide array of defendant needs. In the case of Linda Lacey, Respondent called the program from the bench with the intention of speaking to Ms. Janet Idrogo, M.A., the program's Court Operation Coordinator. Ms. Idrogo came to Respondent's courtroom to speak to him in the presence of the Defendant. Respondent told Ms. Idrogo that he was concerned about the defendant's mental competency and requested that she receive a mental health evaluation at the Essex County Jail. This is the normal and accepted process in the Newark Municipal Court for handling defendants committed to the county jail who evidence psychiatric problems. Given the number of cases moving through the Newark Municipal Court each year, Respondent estimates that resort to this program option is exercised by judges in that court hundreds of times per year. Ms Idrogo completed the

⁵See also N.J.S.A. 2A:10-7. Contempt in municipal courts 2A:10-7. The municipal courts in this State shall have full power to punish for contempt in any case provided by N.J.S.A. 2A:10-1 and N.J.S.A. 2A:10-8. Issuance of warrant - Any court may issue a warrant for the arrest of any person subject to punishment for a contempt pursuant to the provisions of chapter 10 of Title 2A of the New Jersey Statutes, directed to any officer or person authorized by law to serve process, who shall be empowered to serve such warrant in any county of this State and to produce the person subject to punishment for contempt as herein provided before the judge of such court issuing said warrant.

necessary paperwork in the courtroom. She stated she would forward it to Shoval M. Gur-Aryeh, Ph.D., Director of Mental Health Services at the Essex County Jail.

Respondent's intention was to obtain a professionally prepared psychiatric evaluation in order to assess whether the defendant had acted in a purposeful manner and was competent to be tried for contempt in the face of the court. Respondent bench-scheduled the Defendant's next court date for one week later, December 23, 2018.

On December 23, 2018, the Defendant was not produced in person at court from the jail. She was placed on the video list instead. In response, Respondent's staff contacted the jail to find out why the Defendant had not been produced as per his order. The jail personnel claimed that manpower issues prevented bringing the Defendant to court. Respondent also learned on December 23rd that the mental health evaluation he had sought was not completed yet. Dr. Gur-Aryeh responded by email that short staffing issues had prevented the evaluation from occurring.

Respondent believed that the trying the Defendant by video would constitute an intolerable violation of the Defendant's right of confrontation under Article 1, paragraph 10 of the New Jersey Constitution. Moreover, it was critical for Respondent to know if mental illness had rendered her misconduct as something other than purposeful.

In order to correct these deficiencies, Respondent permitted the public defender to represent the Defendant and set a new date for January 3, 2017. The public defender made no application before Respondent or the Superior court to a lower bail or release of the Defendant on her own recognizance.

On January 3, 2017, the Defendant appeared before Respondent in person. She had a different public defender assigned to represent her. The requested mental health evaluation had still not been completed. Given the time that the Defendant had spent in the Essex County Jail in default of bail, Respondent decided that it was no longer in the interests of justice to try the Defendant for contempt. Accordingly, Respondent ordered the Defendant be released from custody. A warrant to discharge was prepared by the municipal court staff and faxed to the county jail the same day. On February 21, 2018, this Committee informed Respondent during a conference that the Defendant was returned to the Essex County Jail on January 3, 2017 and was not released for an additional four days. Respondent is not aware if this delay was a result of other detainers or a failure of the jail to process the warrant to discharge.

RESPONSE TO DENIAL IN PARAGRAPH 25

The Defendant was never adjudged to be in contempt of court and never had a hearing to that effect. The procedural safeguards for contempt in the face of the court are set forth under N.J.S.A. 2A:10-3 and in the case law. As noted above, those safeguards

include the presumption of innocence, the privilege against self-incrimination, the right of cross-examination, proof of guilt beyond a reasonable doubt, and the admissibility of evidence in accordance with the rules of evidence. However, there is no constitutional right to indictment or trial by jury in every summary criminal contempt proceeding.⁶ Apart from the foregoing, Respondent will rely upon the answer given in paragraph 24.

RESPONSE TO DENIAL IN PARAGRAPH 26

The Defendant was never adjudged to be in contempt of court. Rather, she was held in default of bail when there was ample probable cause for Respondent to believe that she had committed a contempt in the face of the court and would not appear for her formal contempt hearing based upon her prior history of failing to appear and appearing late for court. Moreover, the Defendant was more than merely disrespectful. Her misconduct in open court disrupted the proceedings to the extent that immediate action as authorized to every judge in New Jersey under Rule 1:10-1 was necessary to bring it to a halt.

RESPONSE TO DENIAL IN PARAGRAPH 27

Respondent did not set bail for a disorderly persons or petty disorderly persons offense. He set bail on the common law offense of contempt in the face of the court, an offense that is recognized under Rule 1:10-1 and N.J.S.A. 2A:10-1(a), and N.J.S.A. 2A:10-7.

Respectfully submitted,

RAMSEY LAW OFFICE



ROBERT RAMSEY

RR:dd

⁶ In re Yengo, 84 N.J. 111, 119-20(1980).

**LAW OFFICE OF ROBERT RAMSEY
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ATTORNEY FOR RESPONDENT
ATTORNEY ID NO. 001991980**

	:	SUPREME COURT OF NEW JERSEY ADVISORY COMMITTEE ON JUDICIAL CONDUCT
IN THE MATTER OF MARVIN C ADAMES, JUDGE OF THE MUNIICIPAL COURT	:	DOCKET NO. VIII-2014-32E
	:	ANSWER

I, Robert Ramsey, Esquire, by way of response to the Complaint says:

1. Admitted.
2. Admitted.
3. Admitted
4. Admitted.
5. Admitted.
6. Admitted.
7. Admitted.
8. Admitted
9. Admitted
10. Admitted.
11. Admitted.
12. Admitted.
13. Admitted.
14. Admitted.

15. Admitted.

16. Admitted.

17. Admitted.

18. Admitted.

19. Admitted.

20. Admitted.

21. Admitted.

22. Admitted.

23. Denied.

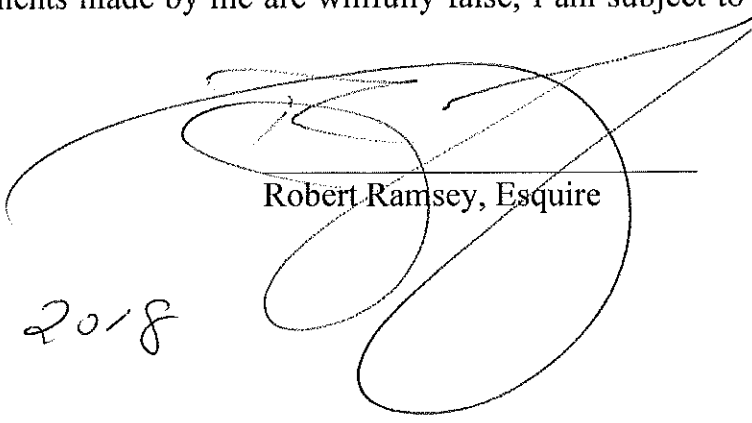
24. Denied.

25. Denied.

26. Denied.

27. Denied.

I certify that the foregoing statements made by me are true. I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.



Robert Ramsey, Esquire

Dated: Dec 16, 2018


VERIFICATION OF ANSWER

I, Marvin C. Adames, am the Respondent in the within disciplinary action and hereby certify as follows;

- 1) I have read every paragraph of the foregoing Answer to the Complaint and verify that the statements therein are true and based on my personal knowledge.
- 2) I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.

Date:

12/16/18


Marvin C. Adames