

FILED

NOV 27 2018

A.C.J.C.

SUPREME COURT OF NEW JERSEY
ADVISORY COMMITTEE ON
JUDICIAL CONDUCT

DOCKET NO: ACJC 2017-222

IN THE MATTER OF

FORMAL COMPLAINT

MARVIN C. ADAMES,
JUDGE OF THE MUNICIPAL COURT

Maureen G. Bauman, Disciplinary Counsel, Advisory Committee on Judicial Conduct (“Complainant”), complaining of Municipal Court Judge Marvin C. Adames (“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 2000.
2. At all times relevant to this matter, Respondent served as a Judge in the Municipal Court of the City of Newark, a position he continues to hold.

Count I

3. Linda Lacey (“Ms. Lacey”) was charged with a petty disorderly persons offense in respect of a landlord-tenant dispute involving damage to Ms. Lacey’s apartment, which she allegedly caused.
4. On November 17, 2016, the parties appeared, with counsel, before Respondent to address the charge. Following protracted discussions with counsel for each party concerning an unrelated

issue in respect of Ms. Lacey's unwillingness to permit the landlord to show the property, which was listed for sale, Respondent remarked:

I'm starting to believe, based on my experience, that you have some mental condition, and if I believe so, and I feel as though you're disrespecting the court, I'll hold you in contempt. I'll send you to the County. I'll have them do an evaluation so I make sure if you need medication and clear your mind, you do that and you're before me with your mind clear and straight. You understand me?

5. During this same proceeding, Respondent observed Ms. Lacey "violently yank" a pen out of a court employee's hand and addressed Ms. Lacey about her conduct stating, "You're not gonna disrespect my staff member," and told her he was going to order a psychological evaluation. Respondent stated to Ms. Lacey, "You must have some mental condition ma'am. You've been disrespectful."

6. Respondent ultimately ordered his court officer to take Ms. Lacey "in the back," referring to the holding cell behind the bench, and advised Ms. Lacey that he intended to hold a contempt hearing at a later date to address her conduct in snatching the pen.

7. After Ms. Lacey was removed from the courtroom, Respondent instructed her attorney to speak to his client.

8. When Ms. Lacey's attorney returned to Respondent's courtroom, he advised Respondent that it was a "very emotional day" for his client and "in no way did she mean to disrespect the Court."

9. Ms. Lacey was brought back into the courtroom. Respondent stated that he had "the authority to do a number of things" but decided to release Ms. Lacey "without consequences," stating the ". . . next time I expect you to be much more respectful." Ms. Lacey replied, "I had no intention of disrespecting the Court. And if you feel that way I apologize."

10. On December 16, 2016, the parties again appeared before Respondent. Ms. Lacey's attorney requested to be relieved as counsel for Ms. Lacey, which Respondent granted. The hearing continued with Ms. Lacey appearing unrepresented. Respondent failed to inquire whether Ms. Lacey wanted substitute counsel or a public defender.

11. During the December 16, 2016 proceeding, Respondent took the opportunity to revisit with Ms. Lacey the events of her prior appearance before Respondent on November 17, 2016 and to discuss with her the landlord-tenant matters that were not before Respondent. Respondent stated to Ms. Lacey:

You're being disrespectful. You're a very intelligent woman. You're a very well dressed woman. You're well put together. But you are doing nothing but playing games. We've been together too many times. And this is now ridiculous."

12. At some point during the December 16, 2016 court proceeding, Respondent ordered Ms. Lacey detained pending a contempt hearing stating:

Based on her actions in court over the course of time, and today just being completely disrespectful in her - - her tone, her demeanor, her body language. Just completely disrespecting the authority of the Court. And for violating the order that I set forth. But as part of this, I'll do the psych evaluation."

13. Respondent scheduled a contempt hearing for December 23, 2016.

14. Respondent set bail at \$10,000/\$1,000. Ms. Lacey, who was still not represented by counsel, did not make bail and remained incarcerated.

15. Ms. Lacey remained incarcerated in the Essex County Jail for twenty-three days awaiting a contempt hearing before Respondent.

16. Ms. Lacey appeared by video from the Essex County Jail on December 23, 2016. Respondent noted that Ms. Lacey had "been sitting there for a couple of weeks" and that the

psychological evaluation he had ordered Ms. Lacey undergo while incarcerated had not been performed. For those reasons, and due to Ms. Lacey's physical absence from the courtroom, Respondent declined to hold the contempt hearing that day and rescheduled it for January 5, 2017.

17. On January 3, 2017, the Municipal Prosecutor, Ms. Lacey and the Public Defender appointed to represent her appeared before Respondent. Respondent stated that he was prepared to proceed with the contempt hearing, however, the psychological evaluation had still not been performed.

18. Respondent admitted to Ms. Lacey that she had been in custody "longer than [she] probably should have" without the County conducting the requisite psychological evaluation, and, as such, he would release her from custody. Respondent further stated he would not hold her to any further bail nor did he feel it would be appropriate to hold the contempt hearing at that juncture stating, ". . . in fairness I can't justify keeping her in custody a day longer, you know. And I've attempted my part, but the system hasn't worked in the way it's supposed to work. So I'm going to release her at this point."

19. At another point during the January 3, 2017 proceeding, Respondent commented, ". . . I think Ms. Lacey has suffered quite a bit already. Sat in jail, you know, the holidays, major holidays."

20. Respondent subsequently dismissed the criminal complaint associated with the landlord-tenant case against Ms. Lacey "in the interests of justice taking into consideration the time she spent in jail."

21. Ms. Lacey remained in jail for an additional four days before she was eventually released on January 7, 2017.

22. When questioned by the Advisory Committee on Judicial Conduct about his incarceration of Ms. Lacey, Respondent indicated that he “decided to hold her to a reasonable bail due to a few factors: her alleged failure to appear in court on previous occasions, her late appearance on several other occasions, her disrespectful attitude towards the court, a concern “she would absent herself from the hearing,” and because “the eviction appeared certain and her whereabouts would be in question.” Respondent reiterated that he was concerned Ms. Lacey “was not going to come back to court.”

23. By Respondent’s conduct in improperly incarcerating Ms. Lacey to ensure her appearance in court in a matter in which incarceration was not appropriate, i.e., disorderly persons/petty disorderly persons offenses issued on a summons, Respondent violated Canon 1, Rule 1.1 and Canon 2, Rule 2.1 of the Code of Judicial Conduct.

24. To the extent that Respondent sought to involuntarily commit Ms. Lacey, he failed to follow appropriate procedures in respect of the civil commitment process as per Rule 4:74-7 by either commencing an action for commitment to treatment through a screening service referral or by filing an application for a court order of temporary commitment, in violation of Canon 1, Rule 1.2 of the Code of Judicial Conduct.

25. By his conduct in holding Ms. Lacey in contempt of court and incarcerating Ms. Lacey for twenty-three days in complete disregard of the procedural safeguards set forth in Rule 1:10-1, Respondent abused his contempt power and deprived Ms. Lacey of her due process for the sole purpose of conducting an involuntary psychological evaluation, in violation of Canon 1, Rule 1.2 of the Code of Judicial Conduct.

26. By Respondent’s conduct in depriving Ms. Lacey of her liberty unjustly and arbitrarily using his contempt power and ordering Ms. Lacey’s immediate incarceration for twenty-three days

for being “disrespectful” to Respondent and court personnel, Respondent impugned the integrity and impartiality of the Judiciary in violation of Canon 1, Rule 1.1 and Canon 2, Rule 2.1 of the Code of Judicial Conduct.

27. By his conduct in setting bail on Ms. Lacey’s summons for a disorderly persons/petty disorderly person’s offense, Respondent 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 that judges observe high standards of conduct so that the integrity and independence of the judiciary may be preserved;

Canon 1, Rule 1.2, which requires judges to respect and comply with the law; and

Canon 2, Rule 2.1, which requires judges to promote public confidence in the independence, integrity and impartiality of the judiciary;

DATED: November 27, 2018

Maureen S. Bauman

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