

FILED

SEP 21 2015

A.C.J.C.

SUPREME COURT OF NEW JERSEY
ADVISORY COMMITTEE ON
JUDICIAL CONDUCT

DOCKET NO: ACJC 2015-093

IN THE MATTER OF

JOSEPH A. PORTELLI
JUDGE OF THE SUPERIOR COURT

FORMAL COMPLAINT

Tracie H. Gelbstein, Disciplinary Counsel, Advisory Committee on Judicial Conduct (“Complainant”), complaining of Superior Court Judge Joseph A. Portelli (“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 1981.

2. Respondent was appointed to the position of Judge of the Superior Court of New Jersey in 2009, a position he continues to hold.

3. At all times relevant to this matter, Respondent was assigned to the Children in Courts docket for the Family Division in Passaic County.

4. The Children in Courts docket included the guardianship matters involving complaints filed by New Jersey’s Division of Child Protection and Permanency (“DCP&P”) seeking termination of parental rights of a parent or guardian to a child or children.

5. Respondent presided over the guardianship matters pending in Passaic County as part of his Children in Courts assignment.

Count I

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

7. On May 29, 2014, the Senior Deputy Attorney General assigned as Chief (“Chief”) to the Department of Children and Families - North Section (“DCF-North Section”) appeared before Respondent on behalf of DCP&P to argue a motion to vacate a contempt order entered against it.

8. The Deputy Attorney General assigned as Assistant Chief (“Assistant Chief”) to DCF-North Section who reported directly to the Chief, was present in Respondent’s courtroom to observe her supervisor’s argument to vacate the order.

9. During a break in the court proceedings, Respondent invited the Chief and Assistant Chief back to his chambers.

10. Once in chambers, Respondent put his arm around the Assistant Chief’s shoulder and remarked to both of them that the Assistant Chief was doing a great job and that he liked how she “shoves it up” or “rams it up” the Law Guardian’s “ass” and the Law Guardian “needs that” or “deserves that.”

11. Respondent’s vulgar, insensitive and insulting remark to attorneys that appear before him regarding another attorney was wholly unbecoming a member of the Judiciary and impugned the integrity of the Judiciary and the public’s confidence in that integrity in violation of Canons 1, 2A and 3A(3) of the Code of Judicial Conduct.

Count II

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

13. A Deputy Attorney General (“DAG”) assigned to DCF-North Section represented DCP&P in guardianship matters, and routinely appeared before Respondent to conduct bench trials on behalf of her client.

14. During several of the DAG's appearances before Respondent, Respondent remarked to her that he "hated" trying guardianship cases because they were "so boring and long."

15. The DAG took offense to Respondent's comments believing that the length of those bench trials was due to the extent of proofs necessary for a judge to appropriately consider termination of parental rights to a child or children.

16. On August 27 and 28, 2014, the DAG appeared before Respondent to try a guardianship matter.

17. The DAG called her witness, a DCP&P family service specialist ("DCP&P Family Specialist"), to testify on behalf of DCP&P as to the circumstances surrounding the parents' mistreatment of their minor child and DCP&P's position on termination of parental rights.

18. Sometime during the court proceeding while the DCP&P Family Specialist was testifying on the stand, Respondent wrote "you look nice today" on his legal pad and showed his note to her.

19. On September 17, 18, and 22, 2014, the DAG appeared before Respondent to try another guardianship matter.

20. The DAG again called the DCP&P Family Specialist to testify on behalf of DCP&P as to the circumstances surrounding the parents' mistreatment of their minor child and DCP&P's position on termination of parental rights.

21. While the DCP&P Family Specialist was testifying on the stand, Respondent wrote on a yellow post-it note that her nails looked nice and showed his note to her.

22. The DCP&P Family Specialist later told her supervisor about Respondent's communications to her while she was testifying on the stand, at which time the supervisor complained to the DAG about Respondent's conduct towards his staff member.

23. By criticizing the process associated with trials in guardianship matters to an attorney that routinely appeared before him on behalf of DCP&P, Respondent revealed his dislike of those judicial proceedings and a diminished sense of their importance that impugned the integrity and impartiality of the Judiciary and the public's confidence in that integrity and impartiality in violation of Canons 1 and 2A of the Code of Judicial Conduct.

24. By his conduct in communicating with the State's witness while that witness was testifying before him during a bench trial, the content of which was about her physical appearance, Respondent demonstrated poor judgement, as well as bias, or minimally the appearance of bias, in favor of the State. Such conduct impugned the integrity and impartiality of the Judiciary and the public's confidence in that integrity and impartiality in violation of Canons 1, 2A and 3A(3) of the Code of Judicial Conduct.

Count III

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

26. To make guardianship matters more comfortable for the children, Respondent routinely invited them to visit his courtroom and chambers, engaged in small talk with them, and permitted them to sit behind the bench on his lap and use his gavel.

27. On one such occasion during the summer of 2013, Respondent was presiding over a Children in Court matter in which the child appeared in court to meet with Respondent.

28. A Deputy Attorney General (“DAG”) assigned to DCF-North was present at the court appearance on behalf of DCP&P.

29. During the course of that appearance, Respondent invited the child to sit on his lap while he was seated on the bench.

30. While the child was on his lap, Respondent turned his attention to the DAG and commented to her in front of the child and a DCP&P supervisor that “no, [DAG], you can’t come sit on my lap next.”

31. The DCP&P supervisor approached the DAG a day or two after Respondent’s remark, and complained to her that Respondent’s comment was inappropriate under the circumstances.

32. By his conduct of making an inappropriate, offensive and sexually implicit remark to an attorney appearing before him in the presence of others, including a minor child involved in a guardianship matter, Respondent demonstrated poor judgment and a lack of dignity and respect for his office and those appearing before him on court business that impugned the integrity of the Judiciary and the public’s confidence in that integrity in violation of Canons 1, 2A and 3A(3) of the Code of Judicial Conduct.

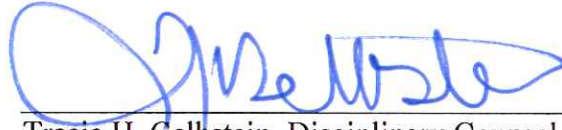
WHEREFORE, Complainant charges that Respondent, Superior Court Judge Joseph A. Portelli, has violated the following Canons of the Code of Judicial Conduct:

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 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, witnesses, lawyers and others with whom the judge deals in an official capacity.

DATED: September 21, 2015



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