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| IN THE MATTER OF<br><br>AISHAAH A. RASUL,<br>JUDGE OF THE MUNICIPAL COURT | SUPREME COURT OF NEW JERSEY<br>ADVISORY COMMITTEE ON<br>JUDICIAL CONDUCT<br><br>DOCKET NO.: ACJC 2019-357<br><br>ANSWER TO COMPLAINT |

**PREAMBLE**

Respondent hereby avers that responses to the paragraphs of the complaint are true and accurate to the Respondent's recollection. The complaint contains many specific allegations as to statements made on the record, dates, and other specific acts that without the official records and transcripts Respondent can only respond to the best of her recollection. She requests the right to amend her answers should a review of the discovery, when received, clarify the matters as said forth above.

I, **Aishaah A. Rasul** do hereby certify by way of answer to the Formal Complaint referenced above that:

1. Admitted.

2. Admitted.

3. Admitted.

4. Admitted.

5. Admitted.

6. Admitted in part, and denied in part. Respondent's recollection is that testimony from the victim Locke was taken on February 5, 2019. However, only defendant Wilks was present as the court administrator had not noticed that there was a co-defendant and had not notified the codefendant of the appearance on the date of the beginning of the trial for Ms. Wilks. Respondent was similarly unaware, and began the trial with Ms. Wilks only considering her the only defendant. As such, the trial was not "continued" on March 13, 2019, but rather was commenced anew after the mistake had been noted and both defendants were present.

7. Admitted. See explanation above.

8. Admitted.

9. Admitted in part and denied in part. Both Bria Locke and Valerie Locke testified on March 13, 2019. Ms. Bria Locke's testimony was commenced anew because both defendants were present for the first time. Only Valerie Locke was cross examined and the matter adjourned.

10. Admitted. On this date of March 25, 2019 defendant Blake disrupted the proceeding when she jumped up from counsel table and began to run around the courtroom shouting "no, no, no, no." She was screaming that she had no one and that she was here in this country alone. Both Respondent and the police officers in the courtroom demanded that she return to her seat, and she was told that she could be arrested. When she returned to counsel table she was crying uncontrollably and within a matter of seconds grabbed a pen from the Public Defender's hand and started stabbing her wrists with it and shouting, "I'm going to kill myself. I'm going to kill myself tonight. I'm going to kill myself." The courtroom was in chaos. Police Sargent Londhal Schmidt advised the court because Blake was threating to harm herself, she needed to be taken to the hospital. Other officers arrived to escort Blake out of the courtroom, and presumably to the hospital. At that time defendant Wilks started moaning

and crying and she blurted out, that a finding of guilty in the matter would violate her as she was in the Drug Court Program.

11. Admitted.

12. Admitted.

13. Admitted.

14. Admitted. The allegation in this paragraph is that Respondent found Ms. Blake guilty, on March 25th. Respondent does not have a recollection of entering a finding of guilt on March 25, but believes instead it was entered on May 8th 2019. On March 25th while Respondent was speaking with the prosecutor and Public Defender (for Ms. Blake, who was by that time removed from the courtroom) what procedure they should follow, the mother of the victim blurted out words to the effect that she wished the court to somehow help the two defendants, saying they needed help, and although she was aware of what happened to her own daughter, "the girls need counseling or something." Admitted as to the statement "I could find you guilty but if I do you are out of Drug Court." This was said not as part of a sentence but rather when defendant Wilks asked what could happen to her. The courtroom at that time was still sadly in chaos from Ms. Blake's outburst and disruption.

15. Admitted. At the end of court on March 25, 2019 during the discussion with the Public Defender and Prosecutor. The prosecutor had suggested the idea of a "period of adjustment," an informal but often utilized remedy in municipal court where all the parties should agree that the matter should be adjourned for six months, that certain tasks may be performed during that time such as restitution, psychiatric counseling, anger management or the like, and upon the return date if the defendant had stayed out of trouble and accomplished whatever goals had been set, then the charges would be dismissed. This is sometimes called "Municipal Court PTI," a "period of adjustment", or "in-house probation". Defendant admits there is no statutory or rule-based anything to do so. It is still utilized in municipal courts.

16. Admitted.

17. Admitted.

18. Admitted.

19. Admitted, but without conviction as per the parties "in-house probation, no fines or court fees were due.

20. Admitted.

21. Admitted. Being a new judge Respondent was in the mindset of a defense attorney, which she had been in that court for the prior nine years. The "period of adjustment" that was informally sometimes called "in-house probation" allowed for flexibility in dealing with cases where something less than a conviction was judged a more just outcome, but where conditions like anger management, restitution or counseling was warranted. That was Respondent's intention; it was not well said nor properly executed.

22. Admitted. Having been on the bench for only a few months, Respondent was unaware of the "longstanding municipal court procedure which provide for the payment of fees, fines and costs in any form to the court for distribution through the court's order made a case tracking system." Indeed, this Complaint alleges that such payments are made through probation. Private payment of restitution was not infrequently employed in this court during Respondent's employment. Here, where the "period of adjustment" was not going to be handled by the probation department and since the court could not collect the funds, Respondent ordered the parties to come to the courthouse to exchange the funds. While there was a "no contact order", Respondent had longtime familiarity with people coming to the courthouse, where there were court officers present to ensure no violence of any sort in order to exchange restitution. Respondent assumed this was an acceptable, and traditional, procedure. Respondent cannot be held accountable for "longstanding municipal court procedures" which have not been reduced to writing. The allegation is that "there is no procedure by which the court could order direct litigants to meet in the courthouse to exchange restitution payments," but neither does it cite any written rule, procedure or

regulation that bars it. Respondent again admits "in-house probation" is not a municipal court option.

23. Admitted. Respondent however, contends that such language is not infrequently used in municipal courts by judges in a verbal attempt to ensure that the defendants are aware that their conduct will be carefully scrutinized over the period of their "probation." Denies that this was a violation of the Judicial Canons.

24. Admitted. Respondent, intending to put the defendants on a "period of adjustment" inadvertently checked off the "guilty" guilty box on the summonses. Respondent did not indicate that the matter would be relisted verbally, but on the back of the summons filed instructions, almost always followed by the court administrator, to relist this matter: "If restitution not paid by June 30th relist" (for an ability to pay hearing), or words to that effect.

25. Admitted in part and denied in part. Respondent intended for the outcome to be the "period of adjustment" as agreed upon by the prosecutor and co-counsel for Blake; Respondent agreed it would be a just outcome. As such, the convictions would not be entered into the record, as no convictions were intended to be entered. It is admitted that part of the motivation, although not the sole motivation, was to assist Ms. Wilks with successful completion of her Drug Court Program, which is a discovery violation. Respondent improvidently also took into account that these individuals were living life in low socioeconomic circumstances, with immigration issues and childcare obligations. Respondent admits such factors are traditionally sentencing factors but are equally applicable in determining whether convictions should be entered or a "period of adjustment" should be the just adjudication. Respondent now realizes such considerations are explicitly prohibited. Respondent understands there is no program available other than Conditional Discharge and Conditional Dismissal formally available for the resolution of cases in such a matter and has learned from this incident. Respondent has been educated by her errors here as to the limits of judicial authority and will not repeat any such mistakes.

26. Admitted. Respondent attempted to find out from Wilks' probation officer what the true consequence of a formal conviction would be on Ms. Wilks, utilizing the information in formulating a decision as to the best and most just outcome. Respondent understands now that consideration of such factors is impermissible except perhaps in the sentencing phase, and regrets and acknowledges her wrongful conduct.

27. Admitted. Respondent did direct the court staff to reschedule the matters in one year with the intention to dismiss those matters, considering the "period of adjustment" to have been the equivalent of a "Plea PTI." If either of the defendants violated the terms of their "period of adjustment", the court could then officially render, and officially note, the finding of guilt that had been announced but not entered. Respondent now understands that this practice, an informal practice not contemplated by the Rules of Court was improper and will not in the future deviate from accepted procedures.

28. Admitted. Defendant used inappropriate and demeaning language in her conversation with the Municipal Court Administrator. At the time of that statement she was admittedly agitated as the complaint alleges, but recognizes that agitation is not an excuse warranting the use of such language. There is no allegation that the conduct was repeated, and the allegation remains a singular incident. Respondent has learned that judicial demeanor extends beyond the bench, inclusive of all court workers, and expresses regret and contrition. This isolated incident does not rise to the level of disciplinary violation.

29. Admitted.

30. Admitted.

31. Admitted. Respondent was still in her "Public Defender" mindset, one that over the prior nine years had been to assist both the victim getting restitution and assist the defendant by encouraging her to pay all outstanding fines, assessments or as in this case, restitution. Respondent has now been made well aware of the far reaches of the *ex parte* doctrine, and aware that no *pro se* litigant should be contacted, nor should a judge accept contact.

32. Admitted.

33. Admitted.

34. Admitted.

35. Admitted. Respondent did add the extra condition on the back of the ticket that if the co-defendant Blake did not pay to Ms. Wilkes her portion of the restitution of $377.00, that Ms. Wilks would be solely responsible for payment of the full amount of the $745.00 but never notified her. Respondent also admits that she, without any basis, assumed that the defendant Wilkes would understand that her "no contact "order would not apply to the courtroom, although it is clear no litigant could logically reach that understanding. Respondent admits her scolding of the defendant was both wrongful and inappropriate, representing a lapse of judgment and professionalism.

36. Admitted. Respondent's comments to Ms. Wilk that she "should have locked the two of you up" were improvident, rude and showed a lack of professionalism. While intending to instill some level of fear in the defendant to facilitate payment of the restitution, both the effort and the language were wrongful. Respondent understands that now.

37. Admitted.

38. Admitted.

39. Admitted. Questions of this nature are not infrequently asked of judges in Municipal Court, and when there is no other option, judges frequently advise such individuals that their only resort is to the civil courts. Resort to the courts authorized for the payment of restitution, under 2C:46-2(b)(c). This information was provided to this judge by the Bergen County Municipal Division Manager for the ostensible purpose of so advising aggrieved victims. Defendant ended by advising the victim to file suit instead of merely advising her of a civil court option.

## COUNT I

40. Respondent repeats her answers as if set forth at length herein.

41. Respondent admits that her attempted disposition of this matter by the suggested "period of adjustment" or in-house probation" was not supported by the Rules of Court and was a misapplication of the fundamental legal tenants, and impugns the integrity of the judicial process. Respondent denies that she engaged in actual impropriety in so doing, as the prosecutor consented, and the prosecutor has full and sole control of the prosecution of the matter, if the prosecutor agrees, after a fact-finding hearing or trial, that the matter should be resolved in a way short of a conviction, one that is not in contravention of the Plea Bargaining Guidelines set forth in the appendix to Part VII, it cannot be said that an actual impropriety with the consent of the prosecution, had occurred.

42. Admitted.

43. Admitted.

## COUNT II

44. Respondent repeats the answers in each of the foregoing paragraphs as if set forth herein at length.

45. Admitted.

## COUNT III

46. Respondent repeats the answers in each of the foregoing paragraphs as if set forth herein at length.

47. Admitted. Respondent admits the violation of the cited Canon and Rule. Respondent understands now fully the far reaches of the *ex parte* bar. Her misplaced motivation to assist the victim in obtaining the court ordered restitution is not an excuse. She has learned from this incident and will be more practiced judge as a result thereof.

48. Admitted.

49. Admitted.

**COUNT IV**

50. Respondent repeats the answers given to each of the foregoing paragraphs as if each were set forth fully at length herein.

51. Respondent admits to injudicious conduct in using an expletive and in telling the MCA to "get off her back." There is no place for this in the courthouse.

52. Admitted.

53. Admitted. However, Respondent contends that an isolated incident of such language does not and should not rise to the level of a disciplinary violation.

**COUNT V**

54. Respondent repeats the answers given to each of the foregoing paragraphs as if each were set forth fully at length herein.

55. Admitted. Respondent is now keenly aware of the need to advise litigants of their constitutional rights, and through the learning process spurred by this Complaint will ensure that this is always done.

**COUNT VI**

56. Respondent repeats the answers given to each of the foregoing paragraphs as if each were set forth fully at length herein.

57. Admitted. By way of mitigation, Respondent meant to advise the victim that her only resort was to the civil courts and not to suggest to her to do so. Indeed, just prior to this date Respondent was given that very information by the Municipal Division Manager.

## COUNT VII

58. Respondent repeats the answers given to each of the foregoing paragraphs as if each were set forth fully at length herein.

59. Admitted. Respondent was not involved in the Blake/Wilks matter prior to the trial date. She was unaware of any conflict having been relieved of her duties of Public Defender approximately six weeks prior to appointment to the bench on December 1st. She was unaware of the rule that she could not be involved in any case which occurred while she still held that title even if she was not actively involved in those duties. She never knew of this incident, nor met any of the parties prior to trial. Respondent is very much aware now, and will ensure that every matter coming before her is vetted to ensure that it took place on or after December 1, 2018.

## AFFIRMATIVE DEFENSES

60. Respondent's mistakes, missteps, lack of prior preparation and education for the position she was ascending to and the lack of competence demonstrated in not knowing some basic legal tenants all occurred in the very early months of her first judicial appointment. This trial commenced little more than two months into her judgeship. She had not received any instruction, no "baby judge college" and was admittedly unaware of some basic principles and nuances related to her role as judge.

61. Respondent had just finished nine years in that same courtroom in a very different capacity, that of the Public Defender, whose job it is to both defend those accused of violations of the law, and to assist them through guidance in complying with all of their obligations under the law, including if convicted, payment of fines, assessments, probationary requirements and restitution. Respondent had not yet fully appreciated the full legal, emotional and psychological difference between those roles. She now appreciates that a judgeship is far different creature than

the role of Public Defender, and aware of the limitations imposed by that role.

62. Respondent has undertaken in the interim exhaustive studies of the Canon of Judicial Conduct; the Rules of Ethics, basic courtroom procedure and caselaw related to the performance of often encountered motions and violations. Respondent is dedicated to studying and learning the rules of procedure so as to not again make the mistakes that she has admitted, and to guard against future mistakes.

63. Respondent is repentant, regretful for the shame this has cast on the judiciary and the judgeship of the Englewood Municipal Court. She vows to execute her future duties when and if returned to her office, in the highest and best judicial traditions.

Dated: December 16, 2019

## VERIFICATION OF RESPONDENT, AISHAAH A. RASUL

I, AISHAAH A. RASUL, of full age, certify and say:

1. I am the Respondent in the foregoing complaint.
2. I am fully familiar with the facts and circumstances of the foregoing action.
3. I have read the attached Answer to the Complaint and the same is true to my personal knowledge. As to matters alleged upon information and belief, I believe such allegations to be true and accurate.
4. 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.

AISHAAH A. RASUL

Sworn to before me this
16th day of December, 2019

Joseph P. Rem, Jr., Esq.
Attorney #016311975
Attorney-At-Law of the
State of New Jersey