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A.C.J.C.

SUPREME COURT OF NEW JERSEY
ADVISORY COMMITTEE ON
JUDICIAL CONDUCT

DOCKET NO: ACJC 2019-357

IN THE MATTER OF

AISHA AH A. RASUL,
JUDGE OF THE MUNICIPAL COURT

FORMAL COMPLAINT

Maureen G. Bauman, Disciplinary Counsel, Advisory Committee on Judicial Conduct
("Complainant"), complaining of Municipal Court Judge Aishaah A. Rasul ("Respondent"),
says:

Facts

1. Respondent is a member of the Bar of the State of New Jersey, having been admitted to the practice of law in 1990.
2. At all times relevant to this matter, Respondent served as a part-time municipal court judge in the City of Englewood, a position to which she was first appointed on December 1, 2018 and continues to hold.
3. Prior to her judicial appointment, Respondent served as the municipal public defender for the City of Englewood for nine years.
4. On or about September 13, 2018, Bria Locke signed citizen's complaints against Ameika Blake and Monique Wilks for which probable cause was found. State v. Ameika Blake; Complaint No. SCE-2018-001203, State v. Monique Wilks, Complaint No. SCE-2018-001204.

5. Ms. Blake and Ms. Wilks were charged with simple assault in violation of N.J.S.A. 2C:12-1. The victim, Ms. Locke, alleged that Ms. Blake and Ms. Wilks caused her physical injuries and were responsible for the property damage caused to her eyeglasses and shoes.
6. The trial in the Blake and Wilks matters commenced before Respondent on February 5, 2019 and continued thereafter on March 13, 2019, March 25, 2019 and May 8, 2019. Ms. Blake was represented by the municipal public defender. Ms. Wilks was self-represented.
7. Respondent heard testimony from Ms. Locke beginning on February 5, 2019 in the absence of Ms. Blake and her attorney.
8. Following Ms. Locke's partial testimony on February 5, 2019, Respondent entered a "No Contact" Order, which prohibited any oral, written or personal contact between Ms. Wilks, Ms. Locke and Ms. Locke's family members, including but not limited to telephonic, text, Facebook, or any other form of social media or electronic communication.
9. On the second trial date, March 13, 2019, Respondent heard the remainder of Ms. Locke's testimony as well as Ms. Blake's testimony and admitted into evidence various documents.
10. When the parties appeared before Respondent on the third trial date, March 25, 2019, Ms. Wilks advised Respondent that she was a participant in the drug court program on an unrelated matter.
11. Respondent, thereafter, asked Ms. Wilks if she wanted to testify on her own behalf, but failed to advise Ms. Wilks of her right against self-incrimination. Ms. Wilks ultimately testified and was questioned by the municipal prosecutor and Respondent.
12. During Ms. Wilks's testimony, Respondent, believing Ms. Wilks to have been involved in the physical altercation that resulted in the simple assault charges at issue, remarked, "if I was in drug court, I would have stayed my ass in the car,"

13. At the conclusion of the trial testimony on March 25, 2019, Respondent permitted Ms. Blake's attorney and the municipal prosecutor the opportunity to give closing statements, but failed to give Ms. Wilks that same opportunity.

14. Following closing statements, Respondent found Ms. Blake guilty of simple assault, but did not make any findings as to Ms. Wilks' guilt or innocence, stating, "I could find you guilty but if I do you're out of Drug Court."

15. Though failing to render a guilty verdict as to Ms. Wilks, and in the absence of any statutory or legal authority, Respondent placed Ms. Wilks on "in-house probation" for one year and warned that if she were to get into "trouble" again Respondent would "find [her] guilty of simple assault," stating "We're your probation officer." In addition, Respondent ordered Ms. Wilks to pay 50% of the cost of the property damage as restitution to Ms. Locke in lieu of assessing the statutorily prescribed court fees and costs and despite the absence of a guilty verdict or any statutory or legal authority to do so.

16. As to Ms. Blake, Respondent, though finding her guilty of simple assault, deferred sentencing Ms. Blake on March 25, 2019, and, again, in lieu of assessing the statutorily prescribed court fees and costs and absent any statutory or legal authority to do so, ordered her to pay 50% of the cost of the property damage as restitution to Ms. Locke.

17. In addition, Respondent again issued "No Contact" Orders on March 25, 2019 prohibiting any oral, written or personal contact between Ms. Wilks and Ms. Blake, and Ms. Locke and Ms. Locke's family, including but not limited to telephonic, text, Facebook, or any other form of social media or electronic communication.

18. Later in the day on March 25, 2019, after the litigants had left the courthouse, Respondent “amended” her findings and required that Ms. Wilks pay the remaining 50% she allocated to Ms. Blake if Ms. Blake failed to pay her share. Respondent did not alert the parties of this amendment.

19. The parties appeared again before Respondent on May 8, 2019, at which time Respondent found Ms. Wilks guilty of simple assault and erroneously advised her that once she made the court ordered restitution payments to Ms. Locke, Respondent would “dismiss or maintain [the] charge.”

20. Respondent warned Ms. Wilks that if she failed to pay a minimum of \$377.00 to Ms. Locke by June 30, 2018, the matter would be re-listed and Ms. Wilks would be required to appear in court to pay to Ms. Locke an undefined sum of money.

21. Respondent also addressed Ms. Blake on May 8, 2019 and, without the requisite statutory or legal authority, advised her that she was “on probation” in “the Englewood Municipal Court,” and instructed her to “report here.”

22. Respondent, in an apparent attempt to avoid recording the guilty verdicts in the court’s automated case tracking system, instructed both defendants to make the required restitution payments *in cash* to Ms. Locke directly or to her mother at a predetermined meeting place in the courthouse. This procedure conflicted with not only the standing “No Contact” orders entered in the Blake and Wilks matters, but with longstanding municipal court procedure, which provides for the payment of fees, fines and costs, *in any form*, to the court for distribution through the court’s automated case tracking system. There is no procedure by which the court could direct litigants to meet in the courthouse to exchange restitution payments.

23. At the conclusion of the proceeding on May 8, 2019, Respondent again warned Ms. Blake and Ms. Wilks that she was “going to keep [her] eyes on [them]”

24. On May 8, 2019, in addition to checking off the “guilty” box on the summonses issued to Ms. Blake and Ms. Wilks, Respondent made the following notes on the back of the summonses: “Blake to pay restitution in the amount of \$377.00[,] if payment not completed by 6/30/2019 the matter will be relisted and Ms. Wilks will be responsible for entire amount.” Respondent did not indicate the date the matter would be re-listed.

25. Respondent, though having issued guilty verdicts against Ms. Blake and Ms. Wilks as of May 8, 2019, directed her court staff to withhold entering those dispositions into the court’s automated case tracking system to avoid any disruption to Ms. Wilks’ participation in the drug court program.

26. Indeed, during the pendency of the Blake and Wilks matters, Respondent made two telephone calls to Ms. Wilks’ probation officer to inquire whether a guilty finding would interfere with Ms. Wilks’ status in drug court and whether it could possibly result in a jail sentence.

27. Respondent further directed her court staff to re-schedule both matters for one year with the intention to dismiss those matters, despite the guilty verdict in each, once Ms. Blake and Ms. Wilks made the court ordered restitution payments.

28. On or about July 7, 2019, the Englewood Municipal Court Administrator advised Respondent that there was no such thing as “in house probation” and that the defendants may not make restitution payments to the victim directly at the courthouse. Admittedly agitated, Respondent told the Court Administrator to “get off [her] fucking back.”

29. Ms. Locke telephoned Respondent on or about July 9, 2019 to advise that she did not receive the court-ordered restitution payments from Ms. Blake or Ms. Wilks.

30. Respondent thereafter telephoned Ms. Wilks, *ex parte*, and off-the-record and repeatedly urged her to pay Ms. Locke the entire amount of the restitution. This telephone call lasted 14

minutes and 34 seconds. Neither the municipal prosecutor, Ms. Blake, nor the public defender were present or connected to the call.

31. Respondent subsequently spoke by telephone with Ms. Locke's mother and inquired when she could come to court to retrieve the payment from Ms. Wilks.

32. Respondent made a second telephone call to Ms. Wilks on July 9, 2019 and directed her to be at the courthouse at 11:00 a.m. the next day with \$377.01 for Ms. Locke who would retrieve the money from her at that time.

33. Ms. Wilks, unable to pay the court-ordered restitution in full, appeared at the Englewood City Municipal Court on July 10, 2019 and attempted to make a partial payment towards the restitution amount.

34. Respondent directed her court staff to refuse Ms. Wilks's partial payment as Respondent had instructed Ms. Wilks to "bring all of the money," and instructed her court staff to have Ms. Wilks call her.

35. Ms. Wilks subsequently called Respondent's cell phone on July 10, 2019 at 10:17 a.m. and recorded her conversation with Respondent. During that telephone call, Respondent advised Ms. Wilks that she was responsible for the entire restitution amount of \$754.01. The following colloquy ensued:

MS. WILKS: No, I don't have amnesia. You ordered me to pay half and Ameika to pay half. I have my half. I tried to get Ameika to bring her half.

RESPONDENT: I told you on the record you each had to pay the whole entire thing. You're the one that broke the glasses.

MS. WILKS: No I didn't. You didn't tell me that on the record.

RESPONDENT: I did and then I said, if in fact you have a problem, which you keep telling me, then tell Ameika and Ameika could pay the other half. But I'm telling you right now. You're responsible for that \$754. And I told the mother not to take any money from you if it's not the right amount. And what the hell you doing down there at 10:18 when you were supposed to be here at 11:00?

MS. WILKS: Because there's a court ordered restraining order against me so I don't feel comfortable paying her personally.

RESPONDENT: There's no restraining order particularly. In the court house building. In the court house building. If you don't follow directions, you're always going to have problems.

36. When Ms. Wilks reiterated to Respondent that she was not able to pay the full amount Respondent replied, "I should have locked the two of you up."

37. Respondent's "No Contact" orders prohibited the parties from contacting each other and were not rescinded or amended by Respondent at any time during the pendency of the underlying proceedings.

38. Ms. Locke's mother telephoned Respondent subsequently to inquire about her daughter's options to compel restitution from the defendants.

39. Respondent advised Ms. Locke's mother that she should file a civil suit in small claims court against Ms. Blake and Ms. Wilks.

Count I

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

41. By imposing a restitution obligation on Ms. Wilks prior to the entry of a guilty verdict and suggesting that the verdict could be “dismissed” once restitution was paid, Respondent demonstrated a lack of competence in the law in violation of Canon 3, Rule 3.2, of the Code of Judicial Conduct, misapplied fundamental legal tenants in violation of Canon 1, Rule 1.2, of the Code, impugned the integrity of the judicial process in violation of Canon 1, Rule 1.1, and engaged in actual impropriety in violation of Canon 2, Rule 2.1, of the Code.

42. Respondent, by using her authority over the disposition of Ms. Wilks’ simple assault conviction to compel payment to Ms. Locke of the court ordered restitution, abused her judicial office in violation of Canon 2, Rule 2.3(A), which prohibits jurists from lending the prestige of the judicial office to advance the personal or economic interests of the judge or others.

43. By sentencing Ms. Blake and Ms. Wilks to a one-year period of “in-house probation,” without the requisite statutory or legal authority, Respondent contravened statutory requirements for the imposition of a probationary sentence in violation of Canon 1, Rule 1.2, of the Code of Judicial Conduct, demonstrated a lack of competence in violation of Canon 3, Rule 3.2, of the Code, impugned the integrity of the judicial process in violation of Canon 1, Rule 1.1, and engaged in actual impropriety in violation of Canon 2, Rule 2.1, of the Code.

Count II

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

45. By her conduct in directing court staff to withhold documenting the court’s disposition of the Blake and Wilks matters in the court’s automated case tracking system for the benefit of the litigants, particularly the defendant Monique Wilks, Respondent obstructed the proper administration of justice in violation of Canon 1, Rule 1.1 and Canon 2, Rule 2.1, of the Code of

Judicial Conduct, demonstrated a bias in favor of Ms. Wilks in violation of Canon 3, Rule 3.17 (B) (6), and allowed her concern for Ms. Wilks' status in drug court to influence her judicial decision-making in violation of Canon 2, Rule 2.2, of the Code.

Count III

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

47. By initiating and engaging in *ex parte* communications about a pending matter with Ms. Wilks, a *pro se* defendant, to compel restitution, Respondent violated Canon 3, Rule 3.8, of the Code of Judicial Conduct.

48. By her conduct in pursuing Ms. Wilks for payment of the restitution amount, Respondent engaged in harassing and injudicious conduct in violation of Canon 3, Rule 3.6(C), which requires jurists, in the performance of their judicial duties, to refrain from using words or conduct that manifest bias or prejudice, or engage in harassment.

49. By her conduct as described above, Respondent demonstrated a failure to conform her conduct to the high standards of conduct expected of judges and impugned the integrity of the Judiciary in violation of Canon 1, Rule 1.1 and Canon 2, Rule 2.1, of the Code of Judicial Conduct.

Count IV

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

51. Respondent's remark to the Court Administrator of the Englewood City Municipal Court and use of an expletive as described in paragraph 28 was discourteous and inappropriate in violation of Canon 3, Rule 3.5, of the Code of Judicial Conduct, which requires jurists to treat all those with whom they deal in an official capacity in a dignified, patient and courteous manner

52. Respondent's repeated threats and abrasive demeanor towards Ms. Blake and Ms. Wilks during and after the trial in the Blake and Wilks matters, as referred to in paragraphs 14, 15, 19, 21, 23 and 36, contravened Respondent's obligations under Canon 3, Rule 3.5, of the Code to treat all those with whom she deals with dignity, patience and courtesy.

53. By her conduct as described above, Respondent demonstrated a failure to conform her conduct to the high standards of conduct expected of judges and impugned the integrity of the Judiciary in violation of Canon 1, Rule 1.1 and Canon 2, Rule 2.1, of the Code of Judicial Conduct.

Count V

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

55. By failing to advise Ms. Wilks, a self-represented litigant, of her right against self-incrimination, and neglecting to provide Ms. Wilks with the opportunity to make a closing statement, Respondent failed to accord to Ms. Wilks the right to be heard in violation of Canon 3, Rule 3.7, of the Code of Judicial Conduct, and demonstrated a lack of competence in violation of Canon 3, Rule 3.2, of the Code.

Count VI

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

57. By suggesting to Ms. Locke's mother that she should file a civil suit against the defendants, Respondent abdicated her obligation to remain a neutral arbiter and provided legal advice to a litigant's family member concerning a matter before Respondent and in so doing 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.

Count VII

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

59. By her conduct in presiding over State v. Blake and State v. Wilks, which were filed at the time that Respondent was the municipal public defender for the City of Englewood, Respondent violated Administrative Directive #31-17, which requires disqualification in such circumstances, demonstrated an inability to conform her conduct to the high standards of conduct expected of judges and impugned the integrity of the Judiciary in violation of 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 jurists to observe high standards of conduct so that the integrity and independence of the Judiciary may be preserved;

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

Canon 2, Rule 2.1, which requires jurists to avoid impropriety and the appearance of impropriety and to act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary;

Canon 2, Rule 2.2, which requires jurists to decide cases according to the law and facts and to not permit family, social, political, financial or other relationships or interests to influence their judicial conduct or judgment;

Canon 2, Rule 2.3(A), which prohibits jurists from lending the prestige of the judicial office to advance the personal or economic interests of the judge or others or to allow others to do so.

Canon 3, Rule 3.2, which requires jurists to be competent in the performance of judicial duties by possessing legal knowledge, skill, thoroughness, and preparation reasonably necessary to perform the responsibilities of judicial office;

Canon 3, Rule 3.5, which requires jurists to be patient, dignified and courteous to litigants, jurors, witnesses, lawyers, and others with whom the jurists deal in an official capacity;

Canon 3, Rule 3.6 (A), which requires jurists to remain impartial and not to discriminate because of race, creed, color, sex, gender identity or expression, religion/religious practices or observances, national origin/nationality, ancestry, language, ethnicity, disability or perceived disability, atypical hereditary cellular or blood trait, genetic information, status as a veteran or disabled veteran of, or liability for service in, the Armed Forces of the United States, age, affectional or sexual orientation, marital status, civil union status, domestic partnership status, socioeconomic status or political affiliation;

Canon 3, Rule 3.6 (C), which requires jurists, in the performance of their judicial duties, to refrain from using words or conduct which manifest bias or prejudice, or engage in harassment, including but not limited to bias, prejudice or harassment on the bases specified in Rule 3.6 (A);


Canon 3, Rule 3.7, which requires jurists to accord to every person who is legally interested in a proceeding, or to that person's lawyer, the right to be heard according to law or court rule;

Canon 3, Rule 3.8, which prohibits jurists from initiating *ex parte* communications concerning a pending or impending proceeding;

Canon 3, Rule 3.17 (B) (6), which requires jurists to disqualify themselves in proceedings in which their impartiality or the appearance of their impartiality might reasonable be questioned;
and

Rule 1:12-1 (g), which requires jurists to disqualify themselves in proceedings in which their impartiality or the appearance of their impartiality might reasonable be questioned.

DATED: November 12, 2019



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