:D-123-13 (074439)(Reddin)
:D-124-13 (074440)(Keegan)

SUPREME COURT OF NEW JERSEY
ADVISORY COMMITTEE ON
JUDICIAL CONDUCT

DOCKET NO.: ACJC 2013-093

IN THE MATTERS OF RAYMOND A. REDDIN, JUDGE OF THE SUPERIOR COURT AND GERALD KEEGAN, JUDGE OF THE MUNICIPAL COURT	**PRESENTMENT**

The Advisory Committee on Judicial Conduct (the "Committee" or "ACJC") hereby presents to the Supreme Court its Findings and Recommendation in these matters in accordance with Rule 2:15-15(a) of the New Jersey Court Rules.[1] The Committee's Findings demonstrate that the charges set forth in the Formal Complaints against Raymond A. Reddin, Judge of the Superior Court, and Gerald Keegan, Judge of the Municipal Court (collectively "Respondents"), have been proven by clear and convincing evidence. The Committee recommends that Respondents be admonished

[1] Inasmuch as the allegations of judicial misconduct asserted against Judges Reddin and Keegan derive substantially from the same set of circumstances, and notwithstanding the issuance of separate ACJC complaints against each Judge under a single docket, the Committee believes it appropriate to consider the concomitant issues of their respective misconduct and the appropriate quantum of discipline for each in one Presentment.

for their conduct as delineated in each of their Formal Complaints.

I. PROCEDURAL HISTORY

These matters were initiated by a referral from the Division of Criminal Justice, Corruption Bureau, of an email from New Jersey resident James DiGiulio to New Jersey Lieutenant Governor Kim Guadagno in December 2012 regarding the conduct of the Respondents in their personal lives. P1; see also P2. In his email, Mr. DiGiulio expressed consternation after observing the Respondents at a local restaurant "meeting" with, among others, Anthony T. Ardis, the former Director of Management Services and Clerk to the Board of the Passaic Valley Sewerage Commission, who was then under indictment and awaiting trial in the Passaic County Superior Court for official misconduct, conspiracy and theft by unlawful taking of PVSC property while employed by the PVSC. P1; see also P3; P4; Reddin Stipulations at ¶¶4-5, ¶¶11-15; Keegan Stipulations at ¶¶4-5, ¶¶12-17.[2]

The Committee conducted an investigation into Mr. DiGiulio's grievance and, as part of that investigation, interviewed five individuals, including the Respondents. P6 thru P10. In addition, the Committee collected and reviewed

[2] The Respondents entered into separate Stipulations with the Presenter. Reference to those Stipulations will be delineated as "Reddin Stipulations" and "Keegan Stipulations," respectively, and "Stipulations" collectively.

documentation relevant to the circumstances discussed in Mr. DiGiulio's email to the Lt. Governor. P3 thru P5.

On September 17, 2013, the Committee issued a Formal Complaint against each Respondent accusing both of creating an appearance of impropriety and demeaning the judicial office by dining publicly with Mr. Ardis subsequent to his arrest and indictment, in violation of Canons 1, 2A and 5A(2) of the Code of Judicial Conduct. In respect of Judge Reddin, the Formal Complaint also contains an allegation that the appearance of impropriety engendered by the Judge's public association with Mr. Ardis was heightened by virtue of Judge Reddin's assignment to the Criminal Division of the Superior Court in Passaic County, the very county and courthouse in which Mr. Ardis's indictment was pending.

Respondents filed separately with the Committee a Notice of Appearance and an Answer to the Formal Complaint, Judge Keegan on October 7, 2013 and Judge Reddin on October 8, 2013. Judge Keegan subsequently filed with the Committee an Amended Answer to the Formal Complaint on March 18, 2014. Respondents, in their Answers, admitted the factual allegations of the Complaint. Judge Reddin, however, denied "knowingly or intentionally" violating the cited Canons of the Code of Judicial Conduct and requested a recommendation from the Committee to the New Jersey Supreme Court that no discipline be imposed against him. Judge

Keegan denied violating Canons 1 and 2A of the Code of Judicial Conduct and denied any intent to violate Canon 5A(2), and, likewise, requested a recommendation from the Committee to the New Jersey Supreme Court that no discipline be imposed against him.

On March 18, 2014, Presenter and Respondents filed separately with the Committee a set of Stipulations in which Respondents again admitted their conduct as alleged in the Formal Complaints.

The Committee convened separate Formal Hearings for each Respondent on March 25, 2014 at which they appeared, with counsel, and offered testimony in defense and mitigation of the asserted disciplinary charges. Exhibits were offered by the Presenter and Respondents, which were admitted into evidence, as were the Stipulations previously referenced. See P-1 through P-10; see also R-1; Stipulations filed March 18, 2014. In respect of Judge Reddin's exhibit, i.e. documents related to his Judicial Performance Evaluation compiled in accordance with Rule 1:35A et seq., the Committee admitted those documents into evidence, under seal, pending authorization from the Supreme Court for their release in conformity with Rule 1:35A-3.b.(4). 1T28-14 to 1T30-10.[3] The Court, by memorandum dated May 27,

[3] "1T" refers to the Transcript of Formal Hearing, In re Raymond A. Reddin, J.S.C., ACJC 2013-093.

2014, authorized their limited use in this judicial disciplinary proceeding, subject to their continued confidentiality. See Memorandum from the Honorable Glenn A. Grant, J.A.D. to John A. Tonelli, ACJC Executive Director, dated May 27, 2014; see also R. 2:15-20. Subsequent to their Formal Hearings and with leave of the Committee, Presenter and Respondents filed post-hearing briefs, which were considered by the Committee.[4]

After carefully reviewing all of the evidence, the Committee makes the following findings, supported by clear and convincing evidence, which form the basis for its recommendations.

II. FINDINGS

A. Stipulated and Uncontested Facts

Respondents are members of the Bar of the State of New Jersey. Stipulations at ¶1. Judge Reddin was admitted to the practice of law in 1978, and Judge Keegan in 1980. Ibid. At all times relevant to these matters, and for nearly eleven years, Judge Reddin has served as a Superior Court Judge in Passaic County primarily assigned to the Criminal Division, a position he continues to hold. Reddin Stipulations at ¶2; see also 2T4-4-

[4] Consistent with Rule 2:6-8, references to Respondents' legal memoranda will be designated as "Rb." To distinguish between the two Respondent's briefs, "1Rb" refers to Judge Reddin's brief and "2Rb" refers to Judge Keegan's brief. The number following this designation signifies the page at which the information may be found.

12.[5] At all times relevant to these matters, and for more than ten years, Judge Keegan has served as a part-time judge in the City of Paterson Municipal Court, a position he continues to hold. Keegan Stipulations at ¶2; see also 3T3-5-18.[6]

The facts and circumstances pertinent to these judicial disciplinary matters are uncontested and the subject of Stipulations. Those facts and circumstances, which inform our decision, are as follows. In early 2000, Respondents and several other men began meeting weekly for dinner on Thursday evenings at various local restaurants in advance of their attendance at a church service. 1T11-10 to 1T12-16; see also 2T8-14 to 2T10-25. Beginning in or around 2003, Anthony T. Ardis, with whom Respondents have been close friends for decades, began participating in those weekly Thursday night dinners, which continue to the present day. 2T6-14 to 2T7-2; 2T11-1 to 2T17-18; see also Stipulations at ¶¶8-10.[7]

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[5] "2T" refers to the Transcript of Interview of Respondent, Raymond A. Reddin, J.S.C., conducted on May 15, 2013, which is designated as P-7 in the record.

[6] "3T" refers to the Transcript of Interview of Respondent, Gerald Keegan, J.M.C., conducted on May 31, 2013, which is designated as P-6 in the record.

[7] Judge Keegan was unable to attend the weekly Thursday night dinners for several years between 2008 and September 2012 due to complications related to his health. Keegan Stipulations at ¶11. He rejoined the group for their weekly Thursday night dinners on September 6, 2012. Id. at ¶12.

On February 1, 2011, Mr. Ardis, while serving as the Director of Management Services and Clerk to the Board of the Passaic Valley Sewerage Commission ("PVSC"), was arrested and charged with official misconduct for using subordinate PVSC employees to perform home improvement projects on his mother's and paramour's homes while those employees were on PVSC time and using PVSC tools, equipment and vehicles. P4; see also Stipulations at ¶4. Thereafter, on June 29, 2011, Mr. Ardis was indicted for official misconduct, conspiracy, and theft by unlawful taking of PVSC property. P4; see also Stipulations at ¶5. Following his indictment, Mr. Ardis awaited trial in the Criminal Division of the Passaic County Superior Court where Judge Reddin sits as a Superior Court judge. Reddin Stipulations at ¶7. News of Mr. Ardis's arrest and indictment were publicized in local and regional news outlets, some of which included his photograph. P5; see also Stipulations at ¶6.

Respondents, aware of Mr. Ardis's arrest and indictment in Passaic County, continued to dine publicly with him on Thursday evenings. Reddin Stipulations at ¶¶16-17; see also Keegan Stipulations at ¶¶19-20. On one such occasion, Respondents joined Mr. Ardis and two other individuals for dinner at Francesco's Restaurant ("Francesco's") on Thursday, September 13, 2012. Reddin Stipulations at ¶11; see also Keegan Stipulations at ¶13. Francesco's is located on McBride Avenue in Woodland

Park, Passaic County, New Jersey. The group would frequently gather at Francesco's for their Thursday night dinners, and when possible, preferred to eat at a table on the outdoor patio located in the front of the restaurant, which overlooked the parking lot. 2T15-14-25; 2T17-12-18; 3T17-19 to 3T18-13. The owner and some of the staff at Francesco's were, in fact, very familiar with Respondents and Mr. Ardis, due in part to the many occasions on which they have dined together, and separately, at the restaurant. 2T45-7 to 2T46-8; 4T7-25 to 4T11-23;[8] 6T4-17 to 6T10-11;[9] 7T4-8 to 7T8-23.[10]

That same evening, September 13, 2012, a local Republican organization was hosting a dinner in an upstairs room of Francesco's, some of whose attendees, familiar with Respondents and Mr. Ardis, greeted the men at their outdoor table before entering the restaurant. Reddin Stipulations at ¶12; see also Keegan Stipulations at ¶14; 3T27-1-20. James DiGiulio, one of the attendees at the Republican dinner party that evening, observed Mr. Ardis dining with Respondents and two other men as

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[8] "4T" refers to the Transcript of Interview of Alfred Agnes, an employee of Francesco's Restaurant, conducted on March 18, 2013, which is designated as P9 in the record.

[9] "6T" refers to the Transcript of Interview of Frank Gencarelli, the owner of Francesco's Restaurant, conducted on March 26, 2013, which is designated as P8 in the record.

[10] "7T" refers to the Transcript of Interview of Angel Rojas, an employee of Francesco's Restaurant, conducted on March 26, 2013, which is designated as P10 in the record.

he was entering the restaurant. P1 at ACJC 0005; see also Reddin Stipulations at ¶¶13-14; see also Keegan Stipulations at ¶¶15-18; P1 at ACJC 0005; 4T26-22 to 4T27-20. Shortly thereafter, on September 18, 2012, Mr. DiGiulio emailed New Jersey's Lieutenant Governor to express his concern about Judge Reddin's conduct in socializing with Mr. Ardis following his indictment in Passaic County. P1 at ACJC 0003. Specifically, Mr. DiGiulio found it "inappropriate for a Superior Court Judge to be meeting with an individual under indictment and awaiting trial in the jurisdiction in which he is a sitting judge." Ibid. Mr. DiGiulio also made reference to Judge Keegan's presence at the "meeting" with Mr. Ardis. Ibid. Upon learning of Mr. DiGiulio's grievance in the Spring of 2013, Respondents voluntarily ceased attending the weekly Thursday night dinners with Mr. Ardis.

While Judge Reddin acknowledged when interviewed the appearance of impropriety created by his public association with Mr. Ardis following Mr. Ardis's arrest and indictment in Passaic County, both he and Judge Keegan disclaimed any awareness of such at the time of these events. 2T46-9 to 2T51-12; 3T28-24 to 3T29-3. Respondents rather described their weekly dinners with Mr. Ardis and several others as a social gathering of "friends" incidental to their joint participation in a "prayer group," the initiation of which preceded and was wholly unrelated to Mr. Ardis's criminal court matter. 2T8-14 to 2T11-21; 3T6-20 to 3T8-

4. The "prayer group," which eventually assumed as its moniker the "Bartimaeus Group," currently consists of approximately twenty-nine members, only a small contingent of which attend the Thursday night dinners. 2T11-1-21; 2T15-3-13; see also P7 at "Reddin-1." On occasion, individuals unaffiliated with the Bartimaeus Group, including Judge Reddin's children, would join the group for their Thursday night dinners. 2T40-19 to 2T41-3; 3T27-1-16.

B. Formal Hearing

Given the factual stipulations of record in these matters, the issues addressed at Respondents' Formal Hearings were twofold: (1) whether Respondents' admitted conduct in routinely dining publicly with Mr. Ardis subsequent to his arrest and indictment in Passaic County violated Canons 1, 2A and 5A(2) of the Code of Judicial Conduct; and (2) in the event such conduct constituted a violation of the Code, the appropriate quantum of discipline as to each for that ethical infraction.

As to the first issue, Judge Reddin again acknowledged the appearance of impropriety created by his conduct in socializing with Mr. Ardis subsequent to Mr. Ardis's arrest and indictment in Passaic County, reiterated that any appearance of impropriety created by his conduct vis-à-vis Mr. Ardis was unintentional, and explained the circumstances of his conduct, all of which corresponded substantially with the Stipulations of record and

Judge Reddin's prior testimony, under oath, during the Committee's investigation into this matter. 1T31-1 to 1T32-19. Judge Keegan, likewise, reiterated that his conduct as it relates to Mr. Ardis and to the extent it is deemed inappropriate was unintentional and stressed his longstanding commitment to preserving the integrity of the judiciary. 5T7-20 to 5T8-1.[11]

On the subject of discipline, Judge Reddin did not contest the need for public discipline, but rather offered several facts he believed mitigated the appearance of impropriety created by his conduct, namely his lifelong friendship with Mr. Ardis and the purportedly inoffensive nature of the Thursday night dinners, which were unrelated to Mr. Ardis's legal issues. 1T11-10 to 1T13-9; 1T30-18 to 1T32-19. Judge Keegan, conversely, argued against the imposition of discipline claiming that any perception of impropriety alleged by his conduct is unreasonable under the circumstances, particularly given his established friendship with Mr. Ardis and their joint participation in a prayer group immediately following dinner. 5T13-2 to 5T14-20.[12] We are

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[11] "5T" refers to the Transcript of Formal Hearing, In re Gerald Keegan, J.M.C., ACJC 2013-093.

[12] Though Judge Reddin acknowledged throughout these proceedings the appearance of impropriety engendered by his conduct, he assumed a different posture in his post-hearing brief wherein he adopted Judge Keegan's position that no appearance of

further informed about this issue by our review of the parties' post-hearing briefs, as well as Respondents' exhibits submitted in mitigation of any potential discipline to be imposed, i.e. letter of character from Rev. Msgr. Mark J. Giordani concerning Judge Keegan, and documents related to Judge Reddin's Judicial Performance Evaluation.

III. ANALYSIS

The burden of proof in judicial disciplinary matters is clear-and-convincing. Rule 2:15-15(a). Clear and convincing evidence is that which "produce[s] in the mind of the trier of fact a firm belief or conviction as to the truth of the allegations sought to be established, evidence, so clear, direct and weighty and convincing as to enable the factfinder to come to a clear conviction, without hesitancy, of the precise facts in issue." In re Seaman, 133 N.J. 67, 74 (1993) (citations and internal quotations omitted).

In these judicial disciplinary matters Respondents have been charged with violating Canons 1, 2A and 5A(2) of the Code of Judicial Conduct by dining publicly with an indicted individual. We find, based on our review of the uncontroverted evidence in the record, that these charges have been proven by clear and

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impropriety was created by their conduct in socializing publicly with Mr. Ardis following his indictment. 1Rb1; 2Rb5.

convincing evidence and that Respondents' conduct violated the cited Canons of the Code of Judicial Conduct.

Canon 1 requires judges to maintain high standards of conduct so that the integrity and independence of the Judiciary are preserved. Canon 2A directs that judges conduct themselves in a manner that promotes public confidence in the integrity and impartiality of the Judiciary. This ethical obligation extends beyond judges' public lives to include conduct in their private lives. In re Hyland, 101 N.J. 635 (1986) (finding that the "Court's disciplinary power extends to private as well as public and professional conduct by attorneys, and *a fortiori* by judges.") (internal citation omitted).

As the Commentary to Canon 2 explains:

> Public confidence in the judiciary is eroded by irresponsible or improper conduct by judges. A judge must avoid all impropriety and appearance of impropriety and must expect to be the subject of constant public scrutiny. A judge must therefore accept restrictions on personal conduct that might be viewed as burdensome by the ordinary citizen and should do so freely and willingly.

Code of Judicial Conduct, Canon 2, Commentary.

This Commentary emphasizes the special role that judges play in our society and the significance of their public comportment. "[J]udges have a special responsibility because they are 'the subject of constant public scrutiny;' everything judges do can reflect on their judicial office. When judges

engage in private conduct that is irresponsible or improper, or can be perceived as involving poor judgment or dubious values, '[p]ublic confidence in the judiciary is eroded.'" In re Blackman, 124 N.J. 547, 551 (1991). As recognized by our Supreme Court, adherence to this principle is of the utmost importance, especially in our municipal courts where the greatest numbers of people are exposed to the judicial system. In re Santini, 126 N.J. 291, 298 (1991); see also In re Murray, 92 N.J. 567, 571 (1983); In re Hardt, 72 N.J. 160, 166-167 (1977).

In keeping with this high standard, Canon 5A(2) requires judges to conduct all of their extra-judicial activities in a manner so as not to demean the judicial office.

In the instant matter, we find that Respondents' admitted course of conduct in dining publicly with Mr. Ardis following his arrest and indictment on various criminal charges creates an appearance of impropriety that has the potential to demean the judicial office in violation of Canons 1, 2A and 5A(2) of the Code of Judicial Conduct. The proscription against such conduct and the appearance of impropriety it necessarily engenders is well-settled and absolute. See In re Rodriguez, 196 N.J. 450 (2008) (admonishing a municipal court judge, in conformity with the ACJC Presentment in ACJC 2008-001, for appearing at the mayor's house following the mayor's arrest for taking a bribe);

In re Blackman, supra, 124 N.J. 547 (reprimanding a judge for attending a social event hosted by a convicted felon).

As delineated by our Supreme Court more than a decade ago, the standard by which we measure a jurist's conduct in the context of creating an appearance of impropriety is whether that conduct engenders "a fair possibility that some portion of the public might become concerned" about the judge's integrity and impartiality. In re Blackman, supra, 124 N.J. at 552-553 (quoting January 29, 1990 Public Statement by Chief Justice Wilentz on Behalf of N.J. Supreme Court, 125 N.J.L.J. 243 (1990)). Under this exacting standard, neither the jurist's motivations for engaging in the subject conduct nor the reasonableness of the public's interpretation of that conduct is material. In re Blackman, supra, 124 N.J. at 551-553. The reason for this is clear. "Members of the public cannot know [of] the judge's subjective motives" for engaging in a particular course of conduct and "may put a very different cast" on it, one that weakens public confidence in the judge and the judiciary. Id. at 551. As such, improper conduct by judges includes not simply creating an appearance of impropriety, but "acquiescing" in such an appearance. In re Blackman, supra, 124 N.J. at 551. This approach underscores the longstanding principle that when speaking in terms of judicial conduct, "appearances count as much as the facts." See January 29, 1990

Public Statement by Chief Justice Wilentz on Behalf of N.J. Supreme Court, 125 N.J.L.J. 243 (1990).

Within this framework, we analyze Respondents' conduct cognizant of several key facts. Respondents were, by their own admissions, fully aware of Mr. Ardis's arrest and indictment when they chose to continue dining publicly with him subsequent to those events. Indeed, news of Mr. Ardis's legal entanglements received significant and prolonged press attention both in the local and regional news outlets throughout the State, spanning more than a year, and oftentimes included Mr. Ardis's photograph. Notably, the most recent article appeared in June 2012, a mere three months before Mr. DiGiulio observed Respondents and Mr. Ardis dining together.

That these dinners were public is beyond dispute. Francesco's Restaurant is situated on McBride Avenue in Passaic County, a public thoroughfare, and is open to the public. When at Francesco's, Respondents would typically eat at a table on the outdoor patio, which faces McBride Avenue and overlooks the restaurant's parking lot. Given its location relative to the parking lot, patrons of Francesco's would necessarily walk past Respondents' and Mr. Ardis's table as they entered or exited the restaurant. Indeed, on the date in question, September 13, 2012, Respondents positioned themselves at one of those outdoor tables where they were greeted by several other restaurant

patrons who were there to attend the Republican dinner party being held in an upstairs banquet room.

In light of these circumstances, we reject as misguided, Respondents' contention that the Thursday night dinners were private and as such distinguishable from the events at issue in Blackman, supra, and Rodriguez, supra. 1Rb1; 2Rb3-5. The very circumstances of these dinners, as described by Respondents, demonstrates the fallacy of this argument. By all accounts, the dinners routinely occurred in full public view and, in the case of Francesco's, were witnessed by many, including the restaurant's staff who were very familiar with Respondents and Mr. Ardis. Though Respondents may have intended their dinners with Mr. Ardis to be private, the fact remains that they were held in the public sphere with several other individuals in attendance, eliminating any expectation of privacy and evincing conclusively the public nature of these dinners. Cf. In re Rodriguez, supra, 196 N.J. 450 (2008) (finding that the circumstances of the judge's visit to the mayor's house following the mayor's arrest on bribery charges demonstrated the public nature of the visit, i.e. friends, officials and political supporters of the mayor were present at his home with the judge).

Similarly, we find the absence of any press coverage related specifically to these dinners, as was stressed by Respondents,

immaterial. 1Rb1; 2Rb3-4. While the existence of such press coverage would certainly have aggravated the appearance of impropriety engendered by Respondents' public association with an indicted individual, its absence does not negate that appearance. It is sufficient that the conduct at issue occurred in public and involved an indicted individual as is evident here.

Under these circumstances, we find that Respondents' continued association with Mr. Ardis following his arrest and indictment created more than a "fair possibility" that some portion of the public might conclude that Respondents tacitly endorsed Mr. Ardis's innocence, disagreed with the criminal justice system that indicted him, or worse, assisted Mr. Ardis with his criminal court matter. Cf. In re Blackman, supra, 124 N.J. at 552 (finding that "a judge who attends a public or social event will be perceived as endorsing or supporting not only the event itself but also persons associated with the event"). Mr. DiGiulio certainly expressed great concern over these dinners, particularly with regard to Judge Reddin's association with Mr. Ardis given his judicial position in the Passaic County Courthouse where Mr. Ardis was then awaiting trial. These perceptions inevitably engender questions about Respondents' character for integrity and, by extension, that of the Judiciary, thus demeaning the judicial office and weakening

the public's confidence in the Judiciary as a body of integrity, in violation of Canons 1, 2A and 5A(2) of the Code of Judicial Conduct.

In defense of these disciplinary charges, Respondents urge us to adopt a new standard by which to evaluate an appearance of impropriety charge -- the "reasonably informed member of the public" standard. 1Rb1; 2Rb4. Under this standard, an appearance of impropriety would exist only in those instances in which a "reasonably informed" person, i.e. an individual aware of the nuances motivating Respondents' actions, or one "who made a reasonable inquiry," perceived an appearance of impropriety.[13] 1Rb1; 2Rb4-5. As discussed previously, this is not the standard by which the Court has traditionally viewed allegations of an appearance of impropriety. This proposed standard is, in fact, directly contrary to that adopted by the Court in Blackman, which specifically declined to apply a "reasonable person" standard, preferring instead to employ a "fair possibility" standard wherein the reasonableness of the public's interpretation and whether that interpretation is "at odds with

[13] A version of this standard was adopted by the Supreme Court for purposes of evaluating the related issues of a jurist's conflict of interest and recusal, neither of which is at issue here. See DeNike v. Cupo, 196 N.J. 502, 517 (2008) (adopting a "reasonable, fully informed person" standard by which to measure when judicial disqualification is necessary, i.e. "Would a reasonable, fully informed person have doubts about the judge's impartiality").

[Respondents'] true motives" is immaterial. In re Blackman, supra, 124 N.J. at 552-553. In this regard, the Blackman Court emphasized jurists' "duty to foresee" when their "actions might be open to criticism by the press or members of the public. Even if such criticism might be a misinterpretation of [their] motives. . . ." Id. at 553.

We similarly reject as misplaced Judge Reddin's reliance on Opinion 26-01 of the Annotated Guidelines for Extrajudicial Activities, dated December 2002 (the "Guidelines").[14] These Guidelines "are intended to implement the Code of Judicial Conduct" and make specific reference to the mandate contained in Canon 2 to "'avoid impropriety or the appearance of impropriety.'" See Annotated Guidelines for Extrajudicial Activities, November 2007, at sec. I "Applicability", sec. II "General Guidelines" at subpart C (quoting Code of Judicial Conduct, Canon 2). Opinion 26-01 to which Judge Reddin cites, relates to a Superior Court judge's attendance at an event, in this case a Senator's retirement dinner. Id. at Opinion 26-01. The subject judge was granted permission by the Committee on Extrajudicial Activities to attend that function based largely on the judge's "longstanding friendship" with the Senator. Ibid.

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[14] The Annotated Guidelines for Extrajudicial Activities was last updated in November 2007.

This opinion bears no reasonable relationship to the present matter. Respondents, irrespective of their longstanding friendship with Mr. Ardis, routinely dined with him in public while he was under indictment for official misconduct, a fact which we find wholly distinguishable from a retirement dinner. Mr. Ardis's indictment casts an unavoidable pall over Respondents' public association with him that is not cured or minimized by their enduring friendship. Moreover, that indictment relates directly to the work of the Judiciary of which Respondents are both members, thus implicating, albeit indirectly, their judicial offices. In the case of a retirement dinner, neither of those concerns are present.

We acknowledge Respondents' contention that in dining with Mr. Ardis subsequent to his arrest and indictment they harbored no improper motives, but rather were only doing that which they had done for nearly a decade prior. Their weekly dinners, as Respondents' describe them, were innocuous events occasioned by a common interest in attending a church service, and Mr. Ardis's participation in those dinners was the direct result of their longstanding friendship with him. We do not doubt Respondents' sincerity and are satisfied that they acted with no improper motive. The issue, however, is not Respondents' motivations or their enduring friendship with Mr. Ardis, but how Respondents' conduct will be perceived by the public. In re Blackman, 124

N.J. at 552. Mr. DiGiulio, unaware of Respondents' professed intent and conscious of Respondents' judicial offices, as well as Mr. Ardis's indictment, perceived their public association with an indicted individual negatively. Respondents, as jurists, had a duty to foresee that consequence and avoid it, which they failed to do.

Having concluded that Respondents violated Canons 1, 2A and 5A(2) of the Code of Judicial Conduct as charged in the Formal Complaints, the sole issue remaining for our consideration is the appropriate quantum of discipline. In our consideration of this issue, we are mindful of the primary purpose of our system of judicial discipline, namely to preserve the public's confidence in the integrity and independence of the judiciary, not to punish a judge. In re Seaman, supra, 133 N.J. at 96 (1993) (citing In re Coruzzi, 95 N.J. 557, 579 (1984)); In re Williams, 169 N.J. 264, 275 (2001).

Relevant to this inquiry is a review of both the aggravating and mitigating factors that may accompany judicial misconduct. In re Seaman, supra, 133 N.J. at 98-100 (citations omitted). The aggravating factors considered by the Supreme Court when determining the gravity of judicial misconduct include the extent to which the misconduct demonstrates a lack of integrity and probity, a lack of independence or impartiality, misuse of judicial authority, and whether the

conduct has been repeated or has harmed others. Id. at 98-99 (citations omitted).

Factors considered in mitigation include the length and quality of the judge's tenure in office, the judge's sincere commitment to overcoming the fault, the judge's remorse and attempts at apology or reparations to the victim, and whether the inappropriate behavior is susceptible to modification. See In re Subryan, 187 N.J. 139, 154 (2006) (citations omitted).

There exist in this instance several mitigating factors that bear on our consideration of the appropriate quantum of discipline. First, while Respondents' conduct in routinely dining with an indicted individual was clearly improper and a violation of the Code of Judicial Conduct for which public discipline is warranted, it stands in stark contrast to their otherwise unblemished judicial careers. Second, when informed of Mr. DiGiulio's grievance, Respondents immediately ceased attending the Thursday night dinners pending further direction from the Committee and ultimately the Supreme Court. Finally, though Respondents dispute engaging in any misconduct, they have assured the Committee that they will be vigilant in avoiding such conduct in the future if it is determined to be unethical.

We further note the absence of any aggravating factors that would affect our consideration of the appropriate quantum of discipline in these matters. In this regard, we find that

though Judge Reddin's position as a Superior Court judge in the courthouse in which Mr. Ardis was awaiting trial may have heightened the appearance of impropriety engendered by his public association with Mr. Ardis, it does not constitute an aggravating factor for purposes of discipline. The appearance of impropriety in this instance is not dependent upon the location in which the Respondents' sit, but rather arises as a direct consequence of their conduct in associating publicly with Mr. Ardis subsequent to his indictment.

The existence of these mitigating factors, taken cumulatively, in conjunction with the absence of any attendant aggravating factors, justifies the imposition of a public admonition, which constitutes the least form of public discipline. Cf. In re Rodriguez, supra, 196 N.J. 450 (2008).[15]

IV. RECOMMENDATION

For the foregoing reasons, the Committee recommends that Respondents be publicly admonished for their violations of Canons 1, 2A and 5A(2) of the Code of Judicial Conduct. This recommendation to impose on Respondents the least severe measure of public discipline reflects the Judiciary's unyielding commitment to protect, promote and preserve its integrity and

[15] The Supreme Court adopted public admonition as the least form of public discipline, below that of public reprimand, subsequent to the Court's decision in In re Blackman, supra. See In re Newman, 189 N.J. 477 (2006).

impartiality from all manner of harm, both actual and apparent, while also accounting for the mitigating circumstances present in these matters.

Respectfully submitted,

ADVISORY COMMITTEE ON JUDICIAL CONDUCT

June 11, 2014

By: Alan B. Handler, Chair