

FILED

AUG 14 2019

A.C.J.C.

SUPREME COURT OF NEW JERSEY
ADVISORY COMMITTEE ON
JUDICIAL CONDUCT

DOCKET NO: ACJC 2019-215

IN THE MATTER OF

ALBERTO RIVAS,
ASSIGNMENT JUDGE OF THE
SUPERIOR COURT

FORMAL COMPLAINT

Maureen G. Bauman, Disciplinary Counsel, Advisory Committee on Judicial Conduct (“Complainant”), complaining of Assignment Judge of the Middlesex Vicinage Alberto Rivas, (“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 1985.

2. At all times relevant to this matter, Respondent served as Assignment Judge of the Middlesex Vicinage, a position he continues to hold.

3. In the matter of J.V. v. M.R.,¹ Plaintiff filed an Order to Show Cause (“OTSC”) with Temporary Restraints against the Defendant seeking the return of several suggestive photographs Plaintiff took of herself for the benefit of her then boyfriend, which were allegedly forwarded to her boyfriend’s wife, the Defendant.

4. The parties, both self-represented, appeared before Respondent on January 10, 2019 for the OTSC hearing. Defendant’s husband, F. T., was also present in court.

5. During that hearing, Plaintiff sought the return of her photographs and expressed concern that the Defendant may disseminate them.

¹ All individuals involved in the matter will be referred to by their initials to maintain the confidentiality of their identity.

6. Respondent, when addressing Plaintiff about the return of those photographs, engaged in the following colloquy with the Plaintiff:

RESPONDENT: Well, she believes you're behind sending these pictures, and its part of a coordinated campaign of harassment. It would become evidence. So, she would - - it would be appropriate for her to give it to the police.

PLAINTIFF: - - all right. I don't know where she works.

RESPONDENT: I find that hard to believe. So, J.V., I was born at night. It was not last night. You have been having a relationship with F.T. for a period of time. Do not sit there and tell me that you're having a relationship with a married man, and that you don't know where his wife works.

PLAINTIFF: I do not. He has never told me.

RESPONDENT: That's not believable.

PLAINTIFF: I have never inquired.

RESPONDENT: That is not believable. I'm telling you that now. I've been doing this for a number of years. Better people have attempted to lie to me, you're not that good.

PLAINTIFF: I do not know where she works. I've never inquired.

RESPONDENT: Baloney.

PLAINTIFF: I've never wanted to know where she works.

RESPONDENT: Baloney.

PLAINTIFF: Up until our statement now - -

RESPONDENT: Baloney. That's not true. If you're screwing him - - let's be frank now, because I should not be wasting judicial

resources on this kind of malarkey. If you have been screwing him for these years, there's no question that you know where she works. That's how affairs work. This is not someone you just met. There's not a question on the table, so don't speak.

7. At another point during the proceeding, Respondent's exchange with the Plaintiff continued as follows:

RESPONDENT: What is your intention with F.T.? Do you intend to still see him?

PLAINTIFF: No.

RESPONDENT: So, why don't you file a Final Restraining Order? I'll be happy to grant it.

PLAINTIFF: No.

RESPONDENT: Why not?

PLAINTIFF: I don't want to be around him. He doesn't want to be around me.

RESPONDENT: Right, and that's what a Final Restraining Order will do.

PLAINTIFF: And that's okay.

RESPONDENT: I would order him not to do it. And if he stepped out of bounds, I can lock him up, because he deserves to be locked up.

PLAINTIFF: I'm not going to do that to him. He is a corrections officer. That would not be fair to his profession.

8. When the Plaintiff again declined to file for a restraining order, Respondent continued to press her. Their colloquy continued as follows:

RESPONDENT: He doesn't care about his profession. Because if he did, he wouldn't be doing this. You should file a final restraining order.

PLAINTIFF: No.

RESPONDENT: And I'll give it right now. Because I can't believe you have let this knucklehead - -

PLAINTIFF: All I want is the pictures.

RESPONDENT: - - do what he's done. And he needs to be brought down a notch.

9. Speaking to the Defendant, Respondent asked, "Why are you still with F.T.?" Following the Defendant's response, Respondent stated, "I would suggest divorce, and take half his pension. That's an option you have having sat in Family Court. You can take his pension."

10. Respondent then addressed F.T., who was not a party to the proceeding but present in court, stating, "I wish you were up here, because I'm gunning for you, because you are despicable. . . ."

11. On learning that Defendant could provide the subject photographs of Plaintiff to the police as part of a harassment complaint, Plaintiff inquired if parts of those photographs could be blacked out, to which Respondent replied, "I'm going to quote Animal House to you. You messed up. You trusted him."

12. Respondent warned both parties and F.T. stating, "[a]nd if you three have not figured out that I'm here just dying to whack one of you, just dying to whack one of you, come back. Come back. Your mistake was coming into my courtroom."

13. Respondent confirmed with both parties that they understood the photographs must be turned over to the police within 24 hours and the Defendant was not permitted to retain any of them. The following colloquy took place between Respondent and Defendant:

DEFENDANT: Understood. There's no reason for me to have them.

RESPONDENT: You have the ones that were sent to your job. You have them. Your problem is with that knucklehead. But, it's clear that you folks have been involved in a triangle, and kind of like the Bermuda Triangle, it's deadly. And you two ladies have let yourselves get played by this guy. Who I'm not going to call him a man, because he does not deserve that title. This homosapien.

14. Respondent concluded the proceeding with the following: "I will give you a piece of advice, J.V. The only person you should be sending naked pictures to are (sic) to Hugh Hefner. He will pay you \$100,000 for the use of them."

Count I

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

16. By his conduct in giving vent to his personal feelings of disapproval about the propriety of Plaintiff's decisions in respect of F.T., Respondent compromised both his integrity and impartiality and that of the Judiciary in violation of Canon 1, Rule 1.1, Canon 2, Rule 2.1 and Rule 2.2, and Canon 3, Rule 3.6 (A) and (C) of the Code of Judicial Conduct.

17. By his conduct as set forth above, Respondent publicly humiliated, embarrassed and demeaned the parties and F.T. in violation of Canon 3, Rule 3.5 of the Code of Judicial Conduct and impugned the integrity of the Judiciary and demonstrated an inability to conform his conduct to the high standards of conduct expected of judges, in violation of Canon 1, Rule 1.1 and Canon 2, Rule 2.1 of the Code of Judicial Conduct.

Count II

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

19. By his conduct in suggesting to Plaintiff that she file for a Final Restraining Order against F.T. and that Defendant divorce F.T. and “take half of his pension,” Respondent created the appearance of a bias. In so doing, Respondent undermined the integrity of the judicial process in violation of Canon 1, Rule 1.1, Canon 2, Rule 2.1 and Canon 3, Rule 3.6 (C) 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 2, Rule 2.1, which requires judges to avoid the appearance of impropriety and to act at all times in a manner that promotes public confidence in the independence, integrity and impartiality of the judiciary;

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

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

Canon 3, Rule 3.6 (A) and (C), which requires judges to be impartial and refrain from exhibiting bias or prejudice.

DATED: August 14, 2019

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