

**COMMONWEALTH OF PENNSYLVANIA
COURT OF JUDICIAL DISCIPLINE**

COURT OF JUDICIAL DISCIPLINE
OF PENNSYLVANIA

JUN 29 2020

RECEIVED AND FILED

IN RE:

Judge John H. Fishel :
Magisterial District Judge : 3 JD 2020
Magisterial District 19-3-01 :
19th Judicial District :
York County :

TO: JOHN H. FISHEL

You are hereby notified that the Pennsylvania Judicial Conduct Board has determined that there is probable cause to file formal charges against you for conduct proscribed by Article V, § 17(b) and § 18(d)(1) of the Constitution of the Commonwealth of Pennsylvania, and the Rules Governing Standards of Conduct of Magisterial District Judges. The Board's counsel will present the case in support of the charges before the Pennsylvania Court of Judicial Discipline.

You have an absolute right to be represented by a lawyer in all proceedings before the Court of Judicial Discipline. Your attorney should file an entry of appearance with the Court of Judicial Discipline within fifteen (15) days of service of this Board Complaint in accordance with C.J.D.R.P. No. 110.

You are hereby notified, pursuant to C.J.D.R.P. No. 302(B), that should you elect to file an omnibus motion, that motion should be filed no later than thirty (30) days after the service of this Complaint in accordance with C.J.D.R.P. No. 411.

You are further hereby notified that within thirty (30) days after the service of this Complaint, if no omnibus motion is filed, or within twenty (20) days after the dismissal of all or part of the omnibus motion, you may file an Answer admitting or denying the allegations contained in this Complaint in accordance with C.J.D.R.P. No. 413. Failure to file an Answer shall be deemed a denial of all factual allegations in the Complaint.

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IN RE:

Judge John H. Fishel	:	
Magisterial District Judge	:	3 JD 2020
Magisterial District 19-3-01	:	
19th Judicial District	:	
York County	:	

COMPLAINT

AND NOW, this 29th day of June, 2020, comes the Judicial Conduct Board of the Commonwealth of Pennsylvania (Board) and files this Board Complaint against the Honorable Judge John H. Fishel, Magisterial District Judge for Magisterial District 19-3-01, York County, Pennsylvania, alleging that Judge Fishel has violated the Rules Governing Standards of Conduct of Magisterial District Judges (RGSCMDJ) and the Constitution of the Commonwealth of Pennsylvania, as more specifically delineated herein.

FACTUAL ALLEGATIONS

1. From July 6, 2009, to the present, Judge Fishel has served continuously as a Magisterial District Judge for Magisterial District Court No. 19-3-01 in York County, Pennsylvania.
2. As a Magisterial District Judge, Judge Fishel was at all times relevant hereto subject to all the duties and responsibilities imposed on him by the Constitution of the Commonwealth of Pennsylvania and the RGSCMDJ adopted by the Supreme Court of Pennsylvania.
3. As a Magisterial District Judge, Judge Fishel was at all times relevant hereto required to "ensure adherence to and compliance with" the Unified Judicial

System of Pennsylvania Policy on Non-Discrimination and Equal Employment Opportunity, effective January 1, 2008 (revised Nov. 2013 and July 2016)(UJS Policy).

4. Article V, § 18 of the Constitution of the Commonwealth of Pennsylvania grants to the Board the authority to determine whether there is probable cause to file formal charges against a judicial officer in this Court, and thereafter, to prosecute the case in support of such charges in this Court.
5. Pursuant to Article V, § 18(a)(7) of the Constitution of the Commonwealth of Pennsylvania, the Board determined that there is probable cause to file formal charges against Judge Fishel in this Court.
6. In September 2019, a clerk employed in Judge Fishel's court office submitted a Non-Discrimination and Equal Employment Opportunity Complaint pursuant to the UJS Policy to York County Court Administration.
7. The Non-Discrimination and Equal Employment Opportunity Complaint alleged that Judge Fishel had violated the UJS Policy.
8. The York County District Court Administrator's Office conducted an investigation into the allegations contained in the Non-Discrimination and Equal Employment Opportunity Complaint.
9. On October 1, 2019, Judge Fishel was notified of the existence of the Non-Discrimination and Equal Employment Opportunity Complaint and that an investigation by the Court Administrator's Office was underway.
10. By letter dated October 30, 2019, Judge Fishel "self-reported" judicial misconduct to Richard W. Long, Chief Counsel of the Judicial Conduct Board.

11. Judge Fishel's self-report pertained to most, if not all, of the allegations contained in the Non-Discrimination and Equal Employment Opportunity Complaint.
12. According to the allegations in the Non-Discrimination and Equal Employment Opportunity Complaint and the ensuing investigation conducted by the Court Administrator's Office, Judge Fishel participated in, and permitted his court staff to participate in, inappropriate communication in the court office as described below.
 - a. A few months after October 8, 2018, Judge Fishel participated in a conversation with some of his court staff members regarding the preference or non-preference for a "big ass."
 - b. On an unspecified date after October 8, 2018, Judge Fishel told his court staff that he had rubbed his penis on the brim of a coffee mug as a practical joke.
 - c. On an unspecified date after October 8, 2018, Judge Fishel participated in a conversation with some members of his court staff regarding anal sex.
 - d. On an unspecified date after October 8, 2018, when a court staff member offered to share with Judge Fishel some cheese that she was snacking on, he queried, "What, you want me to lick your cheese?"
 - e. On an unspecified date after October 8, 2018, when Judge Fishel and members of his court staff were engaged in a discussion about each person's plan for the upcoming weekend, Judge Fishel asked a court

staff member if she was going to engage in sexual activity during the weekend.

- f. On an unspecified date after January 25, 2016, in the presence of some of his court staff, Judge Fishel engaged in a discussion with an attorney and a constable regarding circumcision.
- h. At various times, between December 14, 2014 and October 9, 2019, Judge Fishel used vulgar and profane language in the presence of some of his court staff.
- i. On September 9, 2019, Judge Fishel sent a text message to some members of his court staff telling them that he would return to the office "in 10." When one court staff member replied with a text that read, "bring ice cream LOL," Judge Fishel replied with a text that read, "I have cream but it's not cold."

13. According to the allegations in the Non-Discrimination and Equal Employment Opportunity Complaint and the ensuing investigation conducted by the Court Administrator's Office, Judge Fishel engaged in inappropriate physical contact with some members of his court staff as described below.

- a. Approximately two years ago, Judge Fishel sat on the lap of a court staff member.
- b. On an unspecified date, between December 1, 2014 and October 9, 2019, Judge Fishel caused distress to a staff member who did not want to be touched by behaving as though he was going to touch her.

CHARGES

Count 1- Violation of Canon 1, Rule 1.1

14. By virtue of some or all of the conduct alleged in paragraphs 12 through 13b above, Judge Fishel violated Canon 1, Rule 1.1 of the Rules Governing Standards of Conduct of Magisterial District Judges (RGSCMDJ).

15. Canon 1, Rule 1.1 states the following:

Canon 1, Rule 1.1 Compliance with the Law.

A magisterial district judge shall comply with the law, including the Rules Governing Standards of Conduct of Magisterial District Judges.

16. Judge Fishel failed to comply with the UJS Policy by engaging in inappropriate communication and inappropriate physical contact with his court staff.

17. By failing to comply with the UJS Policy as described in paragraphs 12 through 13b, Judge Fishel failed to comply with the law within the meaning of Canon 1, Rule 1.1 of the RGSCMDJ.

Count 2 - Violation of Canon 1, Rule 1.2

18. By virtue of some or all of the conduct alleged in paragraphs 12 through 13b above, Judge Fishel violated Canon 1, Rule 1.2 of the RGSCMDJ.

19. Canon 1, Rule 1.2 states the following:

Canon 1, Rule 1.2 Promoting Confidence in the Judiciary.

A magisterial district judge shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety.

20. Judge Fishel failed to act at all times in a manner that promotes public confidence in the judiciary and failed to avoid impropriety and the appearance

of impropriety when he engaged in inappropriate physical contact with his court staff and participated in, and permitted his court staff to participate in, inappropriate communication in the court office.

21. By engaging in the conduct described in paragraphs 12 through 13b, Judge Fishel failed to promote confidence in the judiciary within the meaning of Canon 1, Rule 1.2 of the RGSCMDJ.

Count 3 - Violation of Canon 2, Rule 2.5(A)

22. By virtue of some or all of the conduct alleged in paragraphs 12 through 13b above, Judge Fishel violated Canon 2, Rule 2.5(A) of the RGSCMDJ.
23. Canon 2, Rule 2.5(A) states the following:

Canon 2, Rule 2.5(A) Competence, Diligence and Cooperation

(A) A magisterial district judge shall perform judicial and administrative duties competently and diligently.

24. Judge Fishel failed to perform his administrative duties competently and diligently when he failed to require his court staff to adhere to the UJS Policy and cease engaging in inappropriate communication while in the court office.
25. By engaging in the conduct described in paragraphs 12 through 13b, Judge Fishel failed to perform his administrative duties competently and diligently within the meaning of Canon 2, Rule 2.5(A) of the RGSCMDJ.

Count 4 - Violation of Canon 2, Rule 2.8(B)

26. By virtue of some or all of the conduct alleged in paragraphs 12 through 13b above, Judge Fishel violated Canon 2, Rule 2.8(B) of the RGSCMDJ.
27. Canon 2, Rule 2.8(B) states the following:

Canon 2, Rule 2.8(B) Decorum, Demeanor, and Communication in an Official Capacity.

(B) A magisterial district judge shall be patient, dignified, and courteous to litigants, witnesses, lawyers, authorized representatives, court staff, court officials, and others with whom the magisterial district judge deals in an official capacity, and shall require similar conduct of lawyers, court staff, court officials, and others subject to the magisterial district judge's direction and control.

28. Judge Fishel failed to be dignified and courteous to court staff when he engaged in inappropriate physical contact with his court staff and participated in, and permitted his court staff to participate in, inappropriate communication in the court office.
29. By engaging in the conduct described in paragraphs 12 through 13b, Judge Fishel failed to be dignified and courteous within the meaning of Canon 2, Rule 2.8(B) of the RGSCMDJ.

Count 5 through 8 – Violation of Article V, § 17(b) of the Constitution of the Commonwealth of Pennsylvania

30. By virtue of some or all of the conduct set forth above, Judge Fishel violated Article V, § 17(b) of the Constitution of the Commonwealth of Pennsylvania.
31. Article V, § 17(b) of the Constitution of the Commonwealth of Pennsylvania states the following:

Justices and judges shall not engage in any activity prohibited by law and shall not violate any canon of legal or judicial ethics prescribed by the Supreme Court. Justices of the peace shall be governed by rules or canons which shall be prescribed by the Supreme Court.
32. A violation of the RGSCMDJ constitutes an automatic, derivative violation of Article V, § 17(b) of the Constitution of the Commonwealth of Pennsylvania.
33. Judge Fishel violated Canon 1, Rule 1.1.
34. Judge Fishel violated Canon 1, Rule 1.2.
35. Judge Fishel violated Canon 2, Rule 2.5(A).

36. Judge Fishel violated Canon 2, Rule 2.8(B).
37. By violation of all, or some, of the Rules set forth above, Judge Fishel violated Article V, § 17(b) of the Constitution of the Commonwealth of Pennsylvania.

WHEREFORE, John H. Fishel, a Magisterial District Judge of York County, Pennsylvania, is subject to disciplinary action pursuant to the Constitution of the Commonwealth of Pennsylvania, Article V, § 18(d)(1).

Respectfully submitted,

RICHARD W. LONG
Chief Counsel

DATE: June 29, 2020

By:



MELISSA L. NORTON
Deputy Counsel
Pa. Supreme Court ID No. 46684

Judicial Conduct Board
Pennsylvania Judicial Center
601 Commonwealth Avenue, Suite 3500
Harrisburg, PA 17106
(717) 234-7911

VERIFICATION


I, Melissa L. Norton, Deputy Counsel to the Judicial Conduct Board, verify that the Judicial Conduct Board found probable cause to file the formal charges contained in the *BOARD COMPLAINT*. I understand that the statements herein are made subject to the penalties of 18 Pa. Cons. Stat. Ann. § 4904, relating to unsworn falsification to authorities.

Respectfully submitted,

RICHARD W. LONG
Chief Counsel

Date: June 29, 2020

By:


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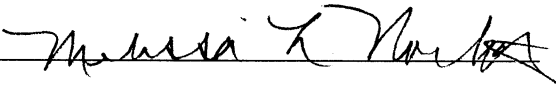
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CERTIFICATE OF COMPLIANCE

I certify that this filing complies with the provisions of the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* that require filing confidential information and documents differently than non-confidential information and documents.

Submitted by: Judicial Conduct Board of Pennsylvania

Signature: 

Name: MELISSA L. NORTON
Deputy Counsel

Attorney No.: 46684

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PROOF OF SERVICE

In compliance with Rule 122(D) of the Court of Judicial Discipline Rules of Procedure was sent via UPS Overnight mail to Robert A. Graci, Esquire, counsel to Judge John H. Fishel at the following address:

Robert A. Graci, Esquire
Saxton & Stump
4250 Crums Mill Road, Suite 201
Harrisburg, PA 17112

Respectfully submitted,

Date: June 29, 2020

BY:


MELISSA L. NORTON
Deputy Counsel

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