

SEP 3 2020

IN THE COURT OF JUDICIAL DISCIPLINE
OF THE COMMONWEALTH OF PENNSYLVANIA

COURT OF JUDICIAL DISCIPLINE
OF PENNSYLVANIA

IN RE:

Judge Mark V. Tranquilli
Court of Common Pleas
5th Judicial District
Allegheny County

No. 4JD 2020

**RESPONDENT'S BRIEF IN SUPPORT OF PETITION FOR RELIEF
REGARDING AUGUST 26, 2020 PER CURIAM ORDER OF COURT**

AND NOW comes the above-captioned Respondent, through his undersigned counsel of record, pursuant to the Court of Judicial Discipline Rules of Procedure, to respectfully submit this brief in support of Respondent's Verified Petition for Relief regarding this Honorable Court's Per Curiam Order of August 26, 2020, whereof the following is a statement:

I. INTRODUCTION

Respondent acknowledges that the allegations contained in the Board's complaint raise serious and significant concerns. Even at this earliest of stages in these proceedings, Respondent acknowledges that he wishes to accept responsibility for certain accusations and he submits that he should be permitted to do so through the public process and procedures governing this Honorable Court. There are, however, certain material allegations in the Board's complaint that are simply incorrect and, similarly, Respondent seeks the opportunity to have a full, complete and fair adjudication of this matter.

Presently, for the reasons set forth herein, Respondent seeks relief from this Court's August 26, 2020 Per Curiam Order and he asserts that a required adjudication of record evidence compels re-examination of the same.

II. FACTUAL¹ BACKGROUND

Respondent has served as a trial judge in the Court of Common Pleas of Allegheny County since January 2014 by virtue of being elected by the voters of Allegheny County in the 2013 general election. During his tenure on the bench, Respondent has never been previously charged by the Judicial Conduct Board ("Board" or "JCB"). Respondent has never been the subject of criminal charges nor have any allegations of criminal activity or corruption ever been lodged against Respondent.

A. Respondent's tenure as a trial judge who most recently presided over numerous jury trials under the SOC docket – cases involving consistent graphic and disturbing testimony.

The Court of Common Pleas of Allegheny County encompasses the entirety of the Fifth Judicial District of Pennsylvania and is the second largest judicial district in our Commonwealth in terms of number of judges and cases. As such, the President Judge of the Court of Common Pleas of Allegheny County maintains a permanent seat on the Judicial Council of Pennsylvania. *See* Pa.R.J.A. No. 301(b)(7).

Additionally, given the volume of cases and the size of the population served, this court is divided into four departments: civil division, criminal division, family division and

¹ For reasons discussed more fully herein, Respondent respectfully suggests that as of the date of this filing, the only facts of record currently before this Honorable Court are those contained in his verified petition for relief.

orphans' division with each being led by an Administrative Judge. *See* Fifth Judicial District of Pennsylvania 2018 Annual Report.

Immediately following his investiture, on January 6, 2014, pursuant to Rule of Judicial Administration 702(1), then President Judge and now President Judge Emeritus Jeffrey A. Manning assigned Respondent to serve in the court's family division which was supervised by then Administrative Judge and now President Judge Kim Berkeley Clark. During his tenure in the family division, Respondent divided his time between the juvenile section, hearing mostly criminal delinquency and dependency matters, and the adult section, hearing mostly child custody and divorce cases.

Based on Respondent's record of service in the family division, his experience and the needs of the court, on January 3, 2018, pursuant to Rule of Judicial Administration 702(2), then President Judge Manning transferred Respondent to the court's criminal division.

Upon his transfer to the criminal division, Respondent was assigned to serve as one of (then) three judges hearing cases on the Sex Offender Court ("SOC") docket. With the support and guidance of our Supreme Court, SOC was created as a specialty court in order to provide for fair and speedy disposition of cases involving charges of rape, involuntary deviate sexual intercourse, indecent assault, corruption of minors, child pornography and the like.

Respondent's robust docket of SOC cases often resulted in jury trials due, in large part, to the burden of the Sex Offender Registration and Notification Act (also known as "Megan's Law"). *See* 42 Pa.C.S. §§ 9799.10 – 9799.41. In addition to hearing cases on the

SOC docket, Respondent was also assigned an allotted allocation of criminal cases involving a wide range of criminal charges.

Importantly, most cases over which Respondent presided during his tenure as a trial judge assigned to SOC court in the criminal division involved graphic and highly disturbing evidence, often involving child victims.

Throughout his tenure as a trial judge in the criminal division, Respondent maintained a diligent work ethic as evidenced, in part, by the quantity of jury trials over which Respondent presided. In his first year as a criminal division judge, Respondent presided over twenty-four jury trials – more jury trials, by a significant margin, than Respondent’s colleagues, apart from the other two judges who were then assigned to the SOC docket.

At the conclusion of this first year, the number of judges assigned to the SOC docket was reduced from three to two and based, again, on Respondent’s experience, record of service and needs of the court, Respondent was assigned as one of the two remaining judges hearing cases on the SOC docket. In 2019, Respondent presided over twenty-six jury trials – again, except for his fellow colleague who was also assigned to the SOC docket, Respondent presided over a significant plurality of the jury trials heard in the criminal division that year (approximately twenty-seven percent of that year’s criminal jury trials).

Significantly, in the month of January 2020 alone, Respondent presided over four jury trials – one each week with the jury returning verdicts late in the day on three consecutive Fridays.

The jury trial in the case of *Commonwealth v. Rice*, CP-02-CR-4083-2017, over which Respondent presided, was the third jury trial with the verdict returned late on Friday,

January 24, 2020 – allegations concerning Respondent’s discussion with the prosecutor and defense lawyer following the discharge of this jury are the genesis of this case.

III. ARGUMENT

Respondent respectfully requests that this Honorable Court restore the *status quo* and adjudicate the Board’s Petition for Relief for Interim Suspension through implementation of this Court’s prior procedures in like circumstances. In conjunction with such requested adjudication, Respondent seeks to be heard with respect to the Court’s expedited scheduling considering well-established processes set forth in this Court’s rules of procedure. Moreover, significant due process considerations under the United States and Pennsylvania Constitutions require reconsideration of this Court’s August 26, 2020 Per Curiam Order.

As initially set forth here and as will be more fully developed should the Court grant the relief requested in the instant petition, Respondent humbly suggests that the Board has not (and will not) meet its burden to prove that the totality of the circumstances requires suspension without pay. *In re Melvin*, 57 A.3d 226, 238 (Pa. Ct. Jud. Disc. 1998); *see also In re Smith*, 712 A.2d 849, 852 (Pa. Ct. Jud. Disc. 1998) (denying Board petition for interim suspension following hearing and argument before conference judge where jurist charged with felonies that included tampering with public records and forgery).

A. This Court's August 26, 2020 Per Curiam Order, entered without the Court having the benefit of record evidence, upsets the *status quo* under which Respondent was prohibited from presiding over cases by virtue of a February 6, 2020 Order of Court entered in consultation with the Pennsylvania Supreme Court pursuant to its supervisory and King's Bench powers.

Importantly, however, prior to a discussion and analysis of this Court's past practices and required considerations in adjudicating an interim suspension petition, Respondent suggests that should this Court allow for presentation of record evidence in an adjudication of the Board's interim suspension petition; due weight be should be given to a critical fact absent from the Board's petition and, therefore, unknown to this Court when it entered its August 26, 2020 Per Curiam Order.

Since the outset of the Judicial Conduct Board's investigation of Respondent and continuing until this Court's August 26, 2020 Per Curiam Order, Respondent has been under a *de facto* suspension with pay, approved by our Supreme Court, by virtue of President Judge Clark's February 6, 2020 Order of Court:

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA
ADMINISTRATIVE DOCKET

IN RE: }
TEMPORARY ASSIGNMENT OF } No. AD - 20 - _____ PJ
HONORABLE MARK V. TRANQUILLI }
TO ADMINISTRATIVE DUTIES }

ORDER OF COURT

AND NOW, this 6th day of February, 2020, it is ORDERED that the Honorable Mark V. Tranquilli is temporarily assigned to perform administrative duties only, effectively immediately. Judge Tranquilli shall not preside over any cases during this assignment.

FILED
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BY THE COURT:


Kim Berkeley Clark
President Judge

In re Tranquilli, No. AD-20-59-PJ (Feb. 6, 2020).

Importantly, President Judge Clark entered the above Order of Court after consultation with the Administrative Office of Pennsylvania Courts and our Supreme Court following her initial, February 3, 2020 Order of Court which, pursuant to Pennsylvania Rule of Judicial Administration 702(2), re-assigned Respondent from the criminal division of the Allegheny County Court of Common Pleas to its summary appeals docket:

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

IN RE:)
)
 TEMPORARY ASSIGNMENT OF)
 HONORABLE MARK V. TRANQUILLI)
 TO SUMMARY APPEALS)

No. AD - 20 - 40 - PJ

ORDER OF COURT

Filed by:

Kim Berkeley Clark
 President Judge

Copies to:

Supreme Court of Pennsylvania
 Hon. Thomas Saylor, Chief Justice
 Hon. Max Baer, Justice
 Hon. Debra Todd, Justice
 Hon. Christine Donahue, Justice
 Hon. Kevin Dougherty, Justice
 Hon. Devin Wecht, Justice
 Hon. Sally Mundy

Court of Common Pleas

Hon. David Cashman, Acting A.J.

Hon. Kim Eaton, A.J.
 Hon. Lawrence O'Toole, A.J.
 Hon. Jill Rangos, A.J.
 Hon. Christine Ward, A.J.

Geoffrey Moulton, Esquire
 Court Administrator

Christopher Connors, Esquire
 District Court Administrator

FILED
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 CLERK OF COURT RECORDS
 ALLEGHENY COUNTY PA

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

ADMINISTRATIVE DOCKET

IN RE:)
)
 TEMPORARY ASSIGNMENT OF)
 HONORABLE MARK V. TRANQUILLI)
 TO SUMMARY APPEALS)

No. AD - 20 - 40 - PJ

ORDER OF COURT

AND NOW, this 3rd day of February 2020, pursuant to Pa.R.J.A. No. 702(2), subject to approval and further Order by the Supreme Court of Pennsylvania it is ORDERED that the Honorable Mark V. Tranquilli is assigned to preside over Summary Appeals, effectively immediately.

BY THE COURT:


 Kim Berkeley Clark
 President Judge

In re Tranquilli, No. AD-20-40-PJ (Feb. 3, 2020).

Indeed, the initial, February 3, 2020 Order of Court that was sent to the Justices of our Supreme Court, was made “subject to approval and further Order by the Supreme Court of Pennsylvania.” *Id.* Our Supreme Court’s actions and discussions with President Judge Clark regarding the instant factual circumstances, as contemplated in the February 3, 2020 Order of Court and which resulted in the February 6, 2020 Order of Court, were entirely appropriate and proper given our Supreme Court’s supervisory authority under

Article V, Section 10 of the Pennsylvania Constitution and its King's Bench powers. *See In re Bruno*, 101 A.3d 635, 687 (Pa. 2014) (comprehensive discussion of Pennsylvania Supreme Court's supervisory powers and King's Bench powers vis-à-vis the Pennsylvania judiciary).

In *Bruno*, our Supreme Court delineated the exercise of such actions taken pursuant to its supervisory and King's Bench authorities, stating:

Properly understood, any such supervisory action is not punishment, but instead represents action undertaken to preserve the integrity of the judiciary. Moreover, because the supervisory action does not punish a jurist for alleged misconduct, and as no decision of the [Court of Judicial Discipline] is before the Court for review, we also reject petitioners' argument that the [Supreme] Court would be placed in a position of appearing to have prejudged an appeal from the [Court of Judicial Discipline's] ultimate disciplinary decision.²

Id.; *see also In re Roca*, 173 A.3d 1176, 1185 (Pa. 2017).

Respondent respectfully asserts that the February 6, 2020 Order of Court properly safeguarded the integrity of the judicial system and would continue to do so during the pendency of litigation proceeds before this Honorable Court which once concluded, following full briefing and argument on a Board petition for interim suspension, where the subject judge was under indictment for felony wire fraud, “[w]e believe that, if Respondent were to continue to hear cases while the charges are unresolved, there could be possible negative impact on the administration of justice and could possibly harm the public

² To the extent necessary, given the communications in these particular circumstances, should the Board or Respondent seek appellate review from our Supreme Court, it is contemplated that an appropriate motion would be proper through which the Supreme Court could fashion a remedy through, *inter alia*, its King's Bench power, to cure any concerns such as those of “having appeared to pre-judge a matter that would otherwise be before it in the ordinary course.” John S. Summers & Rebecca S. Melley, *The Court of Judicial Discipline: A Review of the First Twenty Years*, 84 Pa. B.A. Q. 1, 24 (2013); *see also* Rule 9 of the Rules Governing Appeals from the Court of Judicial Discipline (Formation of Special Tribunal).

confidence in the judiciary.” *In re Lowry*, 78 A.3d 1276, 1287 (Pa. Ct. Jud. Disc. 2013) (holding suspension *with* pay warranted, following full briefing and argument, where respondent judge charged with felony wire fraud).

Given that Respondent was not and could not preside over cases as directed by February 6, 2020 Order of Court, the integrity of the judiciary was not compromised. In entering the August 26, 2020 Per Curiam Order without the virtue of the Board providing the above factual predicate (or any facts of record for that matter), and without argument, hearing or briefing, Respondent asserts that the current interim suspension may at best be viewed as “an automatic or ministerial consequence” of the type this Court has consistently and properly rejected. *In re Smith*, 712 A.2d 849, 851 (Pa. Ct. Jud. Disc. 1998); *citing In re Larsen*, 655 A.2d 239 (Pa. Ct. Jud. Disc. 1994).

At worst, the interim suspension without pay,³ as entered in the present situation considering the factual predicate not provided by the Board, may be viewed as the kind of punishment rejected by our Supreme Court in *Bruno* as referenced above. Indeed, the entry of the interim suspension at present, without the implementation of the procedures allowed for in prior similarly situated matters, belies the serious consideration this Court requires of itself as discussed in *Smith*:

³ Respondent notes that the August 26, 2020 Per Curiam Order did not provide for his medical benefits as had been expressly allowed for previously in the then “only two occasions [the Court of Judicial Discipline] entered an order of interim suspension without pay.” *In re Lowry*, 78 A.3d 1276, 1288 (Pa. Ct. Jud. Disc. 2013); *see In re Melvin*, 57 A.3d 226, 228 (Pa. Ct. Jud. Disc. 2012); *In re Jaffe*, 814 A.2d 308, 319 (Pa. Ct. Jud. Disc. 2003). As referenced in Respondent’s instant petition for relief, Respondent and his minor children receive medical benefits through Respondent’s employment as a judge and the impact of an interim suspension of the same creates a severe hardship such that was not faced by the respondents in the above “egregious” cases involving felony corruption. *In re Lowry*, 78 A.3d at 1288.

[a]n order of suspension will impart a 'taint' upon [respondent] and his aspirations to hold judicial office, which he will carry with him for the rest of his life. Certainly, his political enemies, if any he has, or if any he should have in the future, will be able to say to an electorate largely ignorant of the circumstances: 'He was taken off the bench by the Court of Judicial Discipline.' So, we believe that the decisions of [the Court of Judicial Discipline] upon a petition for *any* order of suspension – with or without pay – involve matters of importance and deserve serious consideration.

In re Smith, 712 A.2d at 852.

Respondent respectfully requests that this Honorable Court vacate its August 26, 2020 Per Curiam Order in order to permit serious consideration of the Board's interim suspension petition through procedures this Court has previously provided.

B. In adjudicating interim suspension petitions, this Court has previously required, *inter alia*, hearings, argument and briefing; given the absence of record facts, such practices should be presently employed.

It is well-established that under the common law, adversarial system through which this Court operates pursuant to Section 18 of the Pennsylvania Constitution, the Board maintains the burden of proof when seeking an interim suspension. *See In re Smith*, 712 A.2d at 852; *citing* Pa. Const. art. V. §18(d)(2). For an interim suspension to attach, the Board must prove that the totality of the circumstances provides a reasonable basis to conclude that suspension of the accused jurist is required. *See id.*; *see also In re Melvin*, 57 A.3d 226, 238 (Pa. Ct. Jud. Disc. 2003).

Based on this Court's rules of procedure and prior practices, the Board must initially advance facts necessary to meet the above burden through a petition for relief. *See* Pa. C.J.D.R.P. No. 701 (whenever Board seeks relief other than filing formal charges it shall be initiated by petition for relief).

This Court's rules clearly require, *inter alia*, that the Board's petition for relief seeking an interim suspension "shall state with particularity the grounds on which it is based" and "shall state whether an evidentiary hearing or oral argument before the Court [of Judicial Discipline] is requested." Pa. C.J.D.R.P. No. 702 (Contents of Petition). Importantly also, where such a petition "sets forth facts which do not already appear of record [it] shall be verified by the party filing it or by counsel for the Board..." Pa. C.J.D.R.P. No. 706 (Verification).

When this Honorable Court entered its August 26, 2020 Per Curiam Order, the record only consisted of the Board's Verified Complaint and unverified Petition for Relief for Interim Suspension, both of which were filed on August 12, 2020.⁴

⁴ In the interest of judicial economy, civility and professional courtesy, counsel for Respondent agreed to accept service of the Board's original process in this matter pursuant to Court of Judicial Discipline Rule of Procedure and counsel has consummated this acceptance through the filing of an acceptance of service made contemporaneously with Respondent's instant filings. Pa. C.J.D.R.P. No. 122(D) (Service).

The entirety of the Board's four-paragraph, unverified petition appear below and other than incorporating the *allegations* contained in the Board's Complaint, it only states legal conclusions and factually avers that "[f]rom January 6, 2014, to the present, [Respondent] has served continuously as a Judge of the Court of Common Pleas of Allegheny County." It fails to apprise this Court of Respondent's *de facto* suspension as discussed above:

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COMMONWEALTH OF PENNSYLVANIA
COURT OF JUDICIAL DISCIPLINE
OF PENNSYLVANIA

IN RE: Judge Mark V. Tranquilli
Court of Common Pleas
5th Judicial District
Allegheny County

4 10 2020

**PETITION FOR RELIEF FOR INTERIM SUSPENSION
WITH OR WITHOUT PAY**

AND NOW, on the 12th day of August, 2020, comes the Judicial Conduct Board of the Commonwealth of Pennsylvania (Board) and files this Petition For Relief For Interim Suspension With or Without Pay pursuant to Rule 201 of the Court of Judicial Discipline Rules of Procedure, and Rule 131(A) of the Board Rules of Procedure and in support thereof, avers the following:

1. The Pennsylvania Constitution provides this Court with the authority to impose interim suspensions as follows:

Prior to a hearing, the court may issue an interim order suspending, with or without pay, of any justice, judge or justice of the peace, upon whom formal charges have been filed with the court by the board or against whom has been filed an indictment or information charging a felony. An interim order under this paragraph shall not be considered a final order from which an appeal may be taken.

Pa. Const., Art. V, § 18(d)(2)
2. From January 6, 2014, to the present, Judge Tranquilli has served continuously as a Judge of the Court of Common Pleas of Allegheny County.
3. Contemporaneously with the filing of this Petition, Board Counsel is filing a Board Complaint against Judge Tranquilli alleging 6 counts of judicial misconduct.


A copy of the Board Complaint is attached hereto, made a part hereof, and incorporated herein by reference as though set forth in full. See Attachment "A" (Board Complaint).

4. The allegations contained within the Board Complaint against Judge Tranquilli undermine both public confidence in the judiciary and its reputation. If Judge Tranquilli is permitted to continue exercising judicial duties during the pendency of the Board Complaint, the public's confidence in the judiciary will continue to erode.

WHEREFORE, it is respectfully requested that this Honorable Court enter an interim order suspending Judge Tranquilli, either with or without pay, pending disposition of the Board Complaint filed against him and to grant such other relief as may be deemed appropriate.

Respectfully submitted,
RICHARD W. LONG
Chief Counsel

DATE: August 12, 2020

BY: 
James P. Klemm, Jr.
Deputy Counsel
Pa. Superior Court ID No. 87637
Judicial Conduct Board
Pennsylvania Judicial Center
651 Commonwealth Avenue, Suite 3500
P.O. Box 62225
Harrisburg, PA 17106
(717) 234-7511

Board Petition for Relief for Interim Suspension filed Aug. 12, 2020.

Respondent respectfully submits that the *allegations* of the Board's complaint are just indeed *allegations* as set described in the Pennsylvania Constitution. See Pa. Const. art. V. §18(d)(5). Indeed, in the event a respondent chooses not to file an eventual answer to a Board's complaint, the factual allegations of the Board's complaint are deemed denied. See Pa. C.J.D.R.P. No. 413 (Answer).

This is not the first time, however, that this Honorable Court had been asked to adjudicate a Board's petition for relief seeking an interim suspension on like filings – based on preliminary research of Respondent's counsel, however, this is the first time that this Honorable Court found that the Board met its burden of proving that the totality of the circumstances require suspension without pay (where the accused jurist had not been charged with a crime) without the benefit of any record advanced through a hearing, an argument or at least briefing.

A review of this Court's most recent practice when asked to adjudicate a Board's interim suspension petition is instructive. *See In re Younge*, No. 2 JD 19 (Pa. Ct. Jud. Disc. 2019). In the matter of Judge Lyris F. Younge, who sits on the Court of Common Pleas of Philadelphia County, the Board filed a ten-count, 266 paragraph complaint against said jurist along with an interim suspension petition. *See id.* (Board Complaint & Petition filed Aug. 20, 2019).

There, as in prior occasions, this Court ordered that a hearing on the interim suspension petition would occur and after a significant evidentiary hearing (along with full briefing by the parties) the Court found that the Board did *not* meet its burden of proof and its denied the interim suspension petition.⁵ *See id.* (Order of Court dated Oct. 2, 2019).

A review of the Board's Brief in Support of Petition for Relief for Interim Suspension filed with this Court in said matter is revealing in that it confirms that the Court's action in finding that the Board met its burden of proof to require an interim suspension without pay *in this case* is unprecedented – substantively and procedurally. *See id.* (Board's Brief in Support of Interim Suspension filed Sept. 25, 2019).

In said brief, the Board provides a clear summary of the procedures employed and the subsequent decisions of this Court and our Supreme Court with respect to the adjudication of interim suspensions of accused judges – the relevant portion of said brief, which clearly speaks for itself and for the instant relief requested by Respondent, is reproduced here:

⁵ As contemplated and permitted by this Court's rules and well-established jurisprudence, at the appropriate time, through an Omnibus Motion, Respondent intends to assert, *inter alia*, violations of the Board's procedures; included among such violations is a challenge to the Board's decision to seek an interim suspension in the first place. *See In re Hasay*, 686 A.2d 809, 816-17 (Pa. 1996) (holding that judicial officer entitled to due process at all stages of proceedings before Board, Court of Judicial Discipline and on appeal – guarantee of due process requires Board procedure be reviewable); *citing* Pa. C.J.D.R.P. No. 411(D)(3). In contrast to this Court's well-defined standards for adjudication of an interim suspension petition, the Board's rules and internal operating procedures are silent as to what standards the Board must employ when exercising its discretion in deciding whether or not to seek an interim suspension where an accused jurist is not charged with a felony.

Interim Suspension of Judicial Officers in Prior Cases

In its decision to grant the Petition for Interim Suspension with pay in *In re Bruno*, 69 A.3d 780, 796-97 (Pa.Ct.Jud.Disc. 2013), this Court set forth two charts of judicial officers who had been subject to interim suspension orders, issued by either this Court or by the Pennsylvania Supreme Court. The lists include the Type of Pleading, the Disposition and the Charges. Those lists are set forth at Attachment C for historical reference.

Since *Bruno*, this Court has issued numerous Orders to suspend judicial officers, based either on Board Complaints or on criminal conduct. The following chart depicts this Court's Suspension Orders based on Board Complaints filed between 2014 and 2019:

25

Interim Suspension Based on Board Complaint			
Case	Petition Interim Suspension	Disposition	Charges
Dombrowski 1 JD 2014	With/Without Pay July 7, 2014	Denied Oct. 9, 2014 Suspension Hearing held.	Improper Demeanor, Ex Parte; False or misleading statements to Board
Jennings 4 JD 2014	With/Without Pay Nov. 14, 2014	Granted With Pay Nov. 17, 2014. Leave to file response.	Conditioned work assignments to constables on 10% contribution to his re-election campaign; failed to transfer parking tickets to another court; sexually suggestive comments about women. Later criminal charges OAG.
	Without Pay July 23, 2015	Without Pay based on new criminal charges.	
Vann 1 JD 2015	With/Without Pay Jan. 2, 2015	Granted, With Pay Jan. 13, 2015 Waiver of Hearing by defense counsel via telephone call. No Suspension Hearing Trial Nov. 2015	Special consideration daughter of close friend in domestic violence case; Failure to recuse from deciding PFAS.
Segal 3 JD 2015	With/Without Pay Mar. 11, 2015	Granted Without Pay Jan. 28, 2016, After trial on merits. No hearing re: suspension.	Ex parte Communication; Special consideration; Failure to Report; Failure to Recuse
O'Neill 4 JD 2015	With/Without Pay Mar. 11, 2015	Granted Without Pay Feb. 2, 2016. Note: Jan. 29, 2016 Trial continued based on Pending Federal Indictment	Ex parte communications. Special Consideration Failure to Recuse. Later charged with lying to FBI
Eakin 13 JD 2015	No Petition Dec. 10, 2015 Rule to Show Cause Order.	Order With Pay Dec. 22, 2015 Suspension Hearing held. Dec. 21, 2015	Sending and receiving inappropriate and offensive email communications, using work computer

26

Interim Suspension Based on Board Complaint			
Case	Petition Interim Suspension	Disposition	Charges
Roca 14 JD 2015	With/Without Pay Dec. 18, 2015	Granted With Pay Jan. 13, 2016. No Suspension Hearing.	Ex Parte Special Consideration
Hladik 6 JD 2016	With/Without Pay December 7, 2016	Granted With Pay Feb. 27, 2017 Suspension Hearing held. Reinstated June 20, 2017	Sexual harassment; Improper demeanor; Failure to uphold the law.
Hladik 3 JD 2017	Renewed Petition With/Without Pay Oct. 10, 2017	Granted With Pay Oct. 27, 2017, Conference call, defense counsel did not oppose Petition.	Retaliation against Board witnesses; Demeanor; Bias;
Younge 2 JD 2019	Pending Decision With/Without Pay Aug. 20, 2019	Suspension Hearing held. Sept. 12, 2019	Inordinate delay Children's Fast Track Appeals; failure to be fair, impartial, and afford right to be heard; improper demeanor; abuse of contempt power.

A companion chart of the Interim Suspensions based on criminal conduct, although not relevant to this analysis, is set forth at Attachment D.

CJD Orders for Interim Suspension

CASE	TYPE OF PETITION	DISPOSITION BY CJD	CHARGES
Larson	Interim Suspension With Pay	Granted (after trial)	Illegal drug purchase
Larson	Interim Suspension Without Pay	Granted (after conviction)	Illegal drug purchase
Beck	Interim Suspension With Pay	Granted	Misappropriation of Court funds
Falk	Interim Suspension With Pay	Granted	This was a temporary case
McFalls	Interim Suspension Without Pay	Denial-suspended with pay	Failure to perform judicial duties and public drunkenness
Jaki	Interim Suspension Without Pay	Granted	Excessive
Clayton	Interim Suspension With Pay	Granted	Second Inmate of Judges
Dobrynski	Interim Suspension With Pay	Granted	Driving his own motor vehicle while intoxicated
Melvin	Interim Suspension With Pay	Granted	Improper use of judicial employees for personal benefit
Melvin	Interim Suspension Without Pay	Granted	Improper use of judicial employees for personal benefit

PA Supreme Court Orders for Interim Suspension

CASE	TYPE OF PLEADING FILED IN CJD	DISPOSITION BY SUPREME COURT	DISPOSITION BY CJD	CHARGES
Amel	New Mot and after conviction	Suspended with pay 4/23/99	Suspended without pay 4/24/99 (after conviction)	Obstruction of justice, etc.
Jones	New Mot	Suspended with pay 8/21/97	No disposition	Accession fund
Mack	New Mot	Suspended with pay 12/29/18	No disposition	Excessive fee and absent from work, etc.
Elglatary	New Mot	Suspended without pay 1/2/13	No disposition	Showing photos of his court work
Melvin	Petition for Suspension with pay 5/18/13	Suspended with pay 5/18/13	Suspended with pay 4/29/13; Order amended to suspend without pay 5/29/13	Improper use of judicial employees for personal benefit
Milgrew	Petition for Suspension without pay 8/14/13	Suspended without pay 8/14/13	Suspended with pay 8/14/13	Trial of government funds
Movsh	New Mot	Suspended with pay 11/6/11	No disposition	Misappropriation of equipment, etc.

In re Bruno, 69 A.3d 780, 796-97 (Pa.Ct.Jud.Disc.2013).

The following chart illustrates this Court's Suspension Orders based on criminal charges between 2014 and 2019:

Interim Suspension Based on Criminal Conduct			
Case	Petition	Disposition	Charges
Shaner 2 JD 2014	With/Without Pay Sept. 14, 2014	Suspended from accepting further Senior MD assignments	Criminal charges
Jennings 4 JD 2014	Without Pay July 23, 2015	Granted. July 28, 2015	Criminal charges
Sullivan 5 JD 2014	Without Pay Jan. 31, 2013	Granted Aug. 19, 2013 Lifted in part, restoring back pay, but not permitted to preside over cases. Nov. 18, 2014.	Criminal charges
O'Neill 4 JD 2015	With/Without Pay Mar. 11, 2015	Granted Without Pay Feb. 2, 2016. Note: Jan. 29, 2016 Trial continued based on Pending Federal Indictment	Criminal charges
Joy 12 JD 2015	With/Without Pay Aug. 13, 2015	Granted Without Pay Aug. 17, 2015	Criminal charges
Dougherty 1 JD 2016	With/Without Pay May 19, 2016	Granted Without Pay May 16, 2016	Criminal charges
Waltman 7 JD 2016	With/Without Pay Dec. 16, 2016	Granted Without Pay Dec. 16, 2016	Criminal charges
1 JD 2019			Criminal Conviction

In re Young, No. 2 JD 19 (Pa. Ct. Jud. Disc. 2019) (Board's Brief in Support of Interim Suspension Petition filed Sept. 26, 2019, pp. 25-27; Ex. D).

Respondent only seeks the same due process afforded by this Honorable Court to prior accused judges⁶ and that which is constitutionally guaranteed.⁷ Respectfully, Respondent asserts that such considerations warrant this Court granting the relief requested in Respondent's instant petition. *See e.g., In re Hasay*, 686 A.2d 809, 815 (Pa. 1996); *quoting Matter of Chiovero*, 570 A.2d 57, 61 (Pa. 1990).

C. The interests of justice and judicial economy compel consideration of argument from Board's counsel and Respondent's counsel with respect to the present significant deviation from established rules regarding discovery, pre-trial practice and trial scheduling.

Importantly, Respondent does not *per se* object to an expedited schedule in general. Rather, Respondent respectfully wishes to be heard regarding any posited deviations with respect to this Court's standard practices and procedures. For the reasons set forth herein, Respondent suggests that in imposing an expedited schedule with accompanying, significant

⁶ Notably, former Rule 801 of this Court's rules of procedure directed that "[a]n interim order granting suspension issued without notice or hearing shall expire unless a hearing on the continuance of the order is held within 10 days after the granting of the order..." Pa. C.J.D.R.P. No. 801(B) (Emergency Relief) (Eliminated by Dec. 7, 2011 Order of Court).

⁷ Should this Court find that its past practice regarding interim suspension allows for the relief sought by Respondent herein, it need not reach an ultimate due process determination. Should the Court find otherwise, however, Respondent respectfully asserts that a review of the present circumstances with respect to the adjudication of the interim suspension petition reflects an absence of the minimal due process required under the United States Constitution. *See Mathews v. Eldridge*, 424 U.S. 319 (1976). Even considering this Court's jurisprudence and that of our Supreme Court's, Respondent asserts that neither Court has passed on whether the granting of an interim suspension *without pay* under like circumstances comports with fundamental due process requirements. *See e.g., In re Merlo*, 17 A.3d 869, 872-73 (Pa. 2011) (finding no due process violation where **accused judge's "[p]ay and benefits specifically were preserved** by our [Supreme Court's] interim suspension order") (emphasis added).

deviations from the standard rules,⁸ in the absence of input from Respondent's counsel and Board's counsel, may result in a less-expedited trial.

For instance, Respondent intends to file a comprehensive Omnibus Motion and he anticipates that discovery will likely be a significant issue this Court will be asked to address in the same. *See* Pa. C.J.D.R.P. No. 411 (Omnibus Motion). Since the inception of the Board's formal investigation less than seven months ago, counsel for Respondent and counsel for the Board have engaged in a consistent, professional dialogue. Respondent's counsel suggests that what would otherwise become disputes requiring Court intervention, the same may likely be resolved should *both* counsel for the Board and counsel for the Respondent be given reasonable time under the circumstances. In the absence of agreement by stipulation or otherwise, *both* the Board and the Respondent may be compelled to present witnesses along with accompanying evidence that judicial economy would, provided *both* attorneys be afforded appropriate time to propose and consider proffers and stipulation, normally find unnecessary.

Similarly, Board counsel has been aware that Respondent intends to serve subpoenas to compel the production of documents and witnesses. *See* Pa. C.J.D.R.P. No. 124 (Omnibus Motion). Indeed, as set forth in Respondent's instant petition, at the outset of the Board's investigation, Respondent's counsel served a preservation letter regarding memoranda that

⁸ Respondent concedes that this Court is well within its authority to modify the deadlines promulgated under the Court's rules of procedure. *See e.g.*, Court of Judicial Discipline Internal Operating Procedure § 401 (Initial Procedure) (if Court concludes expedited answer warranted, Court shall notify respondent by Order). Respectfully, Respondent suggests that the Court should provide his counsel *and* Board's counsel an opportunity to be heard before making any such ruling. *See e.g.*, *In re Hasay*, 696 A.2d 809, 816-17 (discussing discovery in light of due process considerations).

were the genesis of this case and versions of which were leaked to the media in advance of the Board's notice of formal investigation. A true and correct copy of said preservation letter is attached as an exhibit to Respondent's instant petition.

Respondent suggests that principles of fundamental fairness, at a minimum, should allow for counsel to obtain evidence through this Court's established rules or at least be given the opportunity to be heard before the Court would foreclose any such ability.

At present, Respondent merely seeks an opportunity to be heard before the Court makes modifications to the standard practices and procedures established by its rules and internal operating procedures. Such an opportunity should frankly be afforded to both Board's counsel and Respondent's counsel and Respondent asserts that the interests of justice and judicial economy would be well-served should the Court provide such an opportunity by granting the relief sought by Respondent herein.

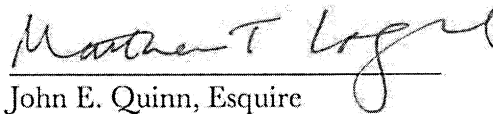
IV. CONCLUSION

For the foregoing reasons and for the reasons set forth in Respondent's instant petition for relief, incorporated herein by reference, Respondent respectfully requests that this Honorable Court grant the relief requested in his instant petition and enter an Order of Court to said effect along with providing such other relief as the Court may deem just and proper.

Respectfully submitted,

QUINN LOGUE LLC

By:



John E. Quinn, Esquire
Pa. ID No. 23268
Matthew T. Logue, Esquire
Pa. ID No. 87416

200 First Avenue, Third Floor
Pittsburgh, PA 15222-1512
(412) 765-3800

Counsel for Respondent

IN THE COURT OF JUDICIAL DISCIPLINE
OF THE COMMONWEALTH OF PENNSYLVANIA

IN RE:

Judge Mark V. Tranquilli
Court of Common Pleas
5th Judicial District
Allegheny County

No. 4JD 2020

CERTIFICATE OF COMPLIANCE

The undersigned certifies that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.

Submitted by:



Matthew T. Logue, Esquire
Pa. ID No. 87416

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OF THE COMMONWEALTH OF PENNSYLVANIA

IN RE:

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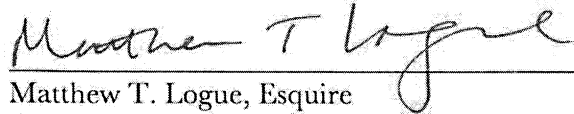
Judge Mark V. Tranquilli
Court of Common Pleas
5th Judicial District
Allegheny County

PROOF OF SERVICE

Pursuant to Rule 122 of the Court of Judicial Discipline Rules of Procedure, the undersigned certifies that on the below date a true and correct copy of the foregoing Brief in Support of Petition for Relief in the above-captioned matter was served upon the following attorneys of record to the parties in this proceeding by USPS First-Class Mail and electronic mail.

James P. Kleman, Jr., Esquire
Deputy Counsel
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Pennsylvania Judicial Center
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james.klemanjr@jcbpa.org

Date: September 3, 2020


Matthew T. Logue, Esquire
Counsel for Respondent

IN THE COURT OF JUDICIAL DISCIPLINE
OF THE COMMONWEALTH OF PENNSYLVANIA

IN RE:

Judge Mark V. Tranquilli
Court of Common Pleas
5th Judicial District
Allegheny County

No. 4JD 2020

ENTRY OF APPEARANCE

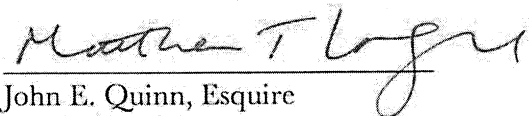
To: The Clerk of Court of the Court of Judicial Discipline of Pennsylvania

Kindly enter the appearance of the law firm of Quinn Logue LLC along with Attorneys John E. Quinn and Matthew T. Logue as counsel of record for the above-captioned Respondent.

Respectfully submitted,

QUINN LOGUE LLC

By:



John E. Quinn, Esquire

Pa. ID No. 23268

Matthew T. Logue, Esquire

Pa. ID No. 87416

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Pittsburgh, PA 15222-1512

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Date: September 3, 2020

Counsel for Respondent

IN THE COURT OF JUDICIAL DISCIPLINE
OF THE COMMONWEALTH OF PENNSYLVANIA

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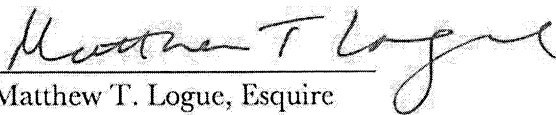
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Submitted by:


Matthew T. Logue, Esquire
Pa. ID No. 87416

IN THE COURT OF JUDICIAL DISCIPLINE
OF THE COMMONWEALTH OF PENNSYLVANIA

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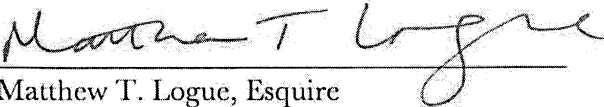
Judge Mark V. Tranquilli
Court of Common Pleas
5th Judicial District
Allegheny County

PROOF OF SERVICE

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James P. Kleman, Jr., Esquire
Deputy Counsel
Judicial Conduct Board of Pennsylvania
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Matthew T. Logue, Esquire
Counsel for Respondent