

COMMONWEALTH OF PENNSYLVANIA  
COURT OF JUDICIAL DISCIPLINE

IN RE: :  
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 :  
 DAVID W. TIDD :  
 FORMER MAGISTERIAL DISTRICT JUDGE: NO. 3 JD 2016 :  
 MAGISTERIAL DISTRICT 03-2-04 :  
 THIRD JUDICIAL DISTRICT :  
 NORTHAMPTON COUNTY :

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BEFORE: HONORABLE DAVID J. BARTON, CONFERENCE JUDGE  
HONORABLE JEFFREY P. MINEHART  
HONORABLE MICHAEL J. BARRASSE

DATE : JANUARY 19, 2017, 9:53 A.M.

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1                   JUDGE BARTON: Good morning, everyone.  
2 Here we are I guess we're continuing to work with some  
3 technical difficulties. A little bit later -- we're  
4 starting a little bit later than we planned, but why  
5 don't we proceed. Counsel.

6                   MS. FLAHERTY: Your Honors, I have just a  
7 couple of housekeeping matters if I may. First of all,  
8 when we were at sidebar yesterday, there was some  
9 confusion with the stipulations, and I believe we  
10 figured that out because the stipulations presented to  
11 Mr. Stretton the numbering of those differed from the  
12 complaint itself so that when Mr. Stretton sent his  
13 response as to what he would accept, what was admitted  
14 and what was not, that tracked the stipulation document  
15 which it does not line up number by number with the  
16 complaint. So my co-counsel, Ms. Norton, is attempting  
17 to rectify that situation for us so that it will be more  
18 certain as to what the stipulations are as we go through  
19 the complaint, and we'd be happy to provide a copy of  
20 that to Mr. Stretton and the Court when that has been  
21 completed.

22                   JUDGE BARTON: That's fine. I think that  
23 we have obviously the document that was filed, and then  
24 on the record we stipulated to certain paragraphs in the  
25 complaint.

1 MS. FLAHERTY: Correct.

2 JUDGE BARTON: If you want to do more  
3 work towards that, we welcome that as well.

4 MS. FLAHERTY: Thank you. I also wanted  
5 to try to address an issue that was raised yesterday as  
6 to the fact that the clerks' names were not included in  
7 the complaint. The clerks were described but not  
8 necessarily named, and there was a concern raised by  
9 Mr. Stretton if Judge Tidd had notice. And I did take  
10 time to go back and look at Judge Tidd's depositions,  
11 and each name of all the clerks was discussed within  
12 that deposition, so certainly -- which took place in the  
13 summer, April and June I believe of 2016. So the notice  
14 is certainly provided.

15 As to the frustrations of all of us in  
16 how the proceedings went yesterday, we did try switching  
17 it up a couple of times to try to move things in. As  
18 Mr. Stretton I think is certainly in concurrence, the  
19 late arrival of the stipulations made it difficult to  
20 reorganize the presentation.

21 And the lack of stipulations to many of  
22 the specific cases made it necessary to try and get them  
23 in as efficiently as possible. It was slow, I agree.  
24 We tried reading it into the record from paragraph by  
25 paragraph. I think that was a different way to do it,

1 but it was also extremely slow.

2                   What I would like to try to do -- and,  
3 again, we're trying to match up our documents and retain  
4 what happened yesterday -- when we bring in witnesses,  
5 if we've had particular cases discussed by prior  
6 witnesses such that the Court is informed that those  
7 witnesses have covered that information, I will try to  
8 proffer to the Court these cases have been discussed in  
9 these paragraphs, these witnesses -- this witness will  
10 testify that she has -- was present on the day this  
11 occurred, that she observed what's stated in the  
12 complaint, that she participated in logging that  
13 information in the -- and memorializing it  
14 contemporaneously as presented in the Board exhibits.  
15 My hope is that that will help move things along and  
16 that we can focus on some of the bigger issues that we  
17 need to present to the Court.

18                   JUDGE BARTON: Thank you.

19                   MS. FLAHERTY: Certainly. We had planned  
20 that former President Judge now Judge Kimberly McFadden  
21 would be our first witness via videoconference. They're  
22 having some technical difficulties connecting with  
23 Northampton County Court of Common Pleas. So at this  
24 time we'd like to recall Diane Kale, and then our tech  
25 gurus will inform us whenever we can get -- hopefully

1 we'll get Judge McFadden on after Ms. Kale is through.

2 JUDGE BARTON: That's fine. We're  
3 certainly happy to take Judge McFadden whatever works  
4 best with her schedule as well as technical  
5 circumstances.

6 MS. FLAHERTY: Great. And then one other  
7 issue that was raised yesterday had to do with whether  
8 there was -- whether these cases that have been  
9 mentioned so far were old cases and that perhaps laches  
10 or statute of limitations might apply.

11 And I did want to point out that those  
12 issues were presented in the omnibus petition and the  
13 motion to dismiss those was denied in the Court's order.  
14 I further wanted to explain, if I may, because two of  
15 you judges are new to the panel -- if you're already  
16 familiar with this, I do apologize -- but according to  
17 the Board rules, and it is at Rule 15 regarding time  
18 limitations, if I may read that into the record for you,  
19 except where the Board determines otherwise for good  
20 cause, the Board shall not consider complaints arising  
21 from acts or omissions occurring more than four years  
22 prior to the date of the complaint. And I'll pause  
23 there to say the complaint is the confidential request  
24 for information received from the complainant. That's  
25 not referring to the Board complaint. That's the

1 confidential request for investigation. So it's four  
2 years prior to the date of the complainant's complaint.

3           However, when the last episode of an  
4 alleged pattern of recurring judicial misconduct arises  
5 within the four-year period, the Board may consider all  
6 prior acts or omissions related to such an alleged  
7 pattern of conduct.

8           So that's what we relied on when we  
9 argued it in our briefs in response to the omnibus  
10 motion, and we rely on that here today. If you were to  
11 look at the Board exhibits at Numbers 1 through 6, those  
12 are the confidential requests for investigation that we  
13 received. The first one received was anonymous. That  
14 was in August of 2014. That contains many of the issues  
15 that are presented -- have been presented to date and  
16 others you will hear about today. In addition, the  
17 complaints raised other issues that we had to  
18 investigate and are not necessarily charged here today.

19           Then in 2015 we received two signed  
20 complaints which are also a part of this Board complaint  
21 and have to do with conflicts of interest and with  
22 bankruptcy matters which is the final section -- it's  
23 Section G I believe in the complaint.

24           And then after that we also received  
25 three anonymous complaints in 2015 which tracked the

1 issue of conflicts. So I wanted to reassure you that we  
2 received those complaints in 2014 and 2015. There were  
3 many, many issues raised. We investigated them as  
4 expediently as we could. And based on the fact of when  
5 the complaints were received and when the conduct  
6 occurred, the first one, 2014, would take us back to the  
7 year 2010 under our limitations period. Additionally,  
8 even if there was an issue, if one instance occurred  
9 between the particular limitations period, we could look  
10 back even further if there was a pattern of conduct.  
11 Thank you. Do you have any questions on that issue?

12 JUDGE BARTON: I think we're ready to  
13 proceed.

14 MS. FLAHERTY: All right, thank you. The  
15 Board calls Diane Kale.

16 JUDGE BARTON: One second. Mr. Stretton  
17 is standing up which signals to me he would like to  
18 speak. I'm going to give him the opportunity to  
19 respond.

20 MR. STRETTON: Just as you understand, I  
21 radically disagree with her interpretation of that rule  
22 because it would be meaningless. I could have  
23 complaints in 2008 and then 2016 you have similar  
24 complaints, I was mean to an officer, whatever, and  
25 they're saying the statute doesn't apply.



1                   Secondly, I disagree. Complaint means  
2 when they filed the letter which is February of 2016,  
3 not when they receive it. And, third, there's laches.  
4 Remember DeLeon case which I won with then President  
5 Judge Sprague, and this Court dismissed all the charges  
6 against Judge DeLeon on laches. And this case has a lot  
7 of laches issues which we'll address in our brief later.  
8 We're ready to proceed.

9                   JUDGE BARRASSE: Do you have a witness  
10 today that's going to be testifying?

11                   MR. STRETTON: I do if we can do it. I  
12 don't want to interfere with their scheduling.

13                   JUDGE BARRASSE: I didn't know if that  
14 was worked out or not.

15                   MR. STRETTON: Mr. Waldron is available  
16 at 3:30 by telephone. He's leaving for Florida tonight  
17 or tomorrow. He's supposed to be here, but he said he  
18 couldn't make it, so I asked if we could do it by  
19 telephone. I'm not overly happy with doing it that way  
20 having him fully served. But they have a number of  
21 police officers they brought up, and let's see how it  
22 goes because they definitely want to get them in.

23                   At noontime today I'm going to ask you  
24 what should I tell my other witnesses because it's hard  
25 for me to bring them back a second time. I don't have

1 quite the gravitas of the Judicial Conduct Board. Many  
2 of them aren't overly thrilled with being put under  
3 subpoena. So I just have to be able to call them around  
4 1:00 or my office, my paralegal, will as soon as I get  
5 direction from the Court. That doesn't mean we still  
6 can't do things tomorrow. If they finish their case  
7 tomorrow at noon, I still have David Tidd, and I'll put  
8 him on, his evidence. His testimony is the essence of  
9 the case. That's really what it comes down to.

10 JUDGE BARTON: We'll reassess where we  
11 are with respect to that as we break for lunch. Thank  
12 you.

13 MR. STRETTON: Our sequestration I see  
14 there's some potential witnesses in the room. There  
15 were.

16 JUDGE BARTON: Okay, we'll continue with  
17 sequestration. Ms. Flaherty, are there some Board  
18 witnesses in the courtroom at this time?

19 MS. FLAHERTY: Just Ms. Kale who has  
20 arrived for her testimony.

21 MR. STRETTON: Mr. Repyneck is in here.  
22 He could very well be called maybe by us depending on  
23 what his wife says.

24 JUDGE BARTON: He's not the Board's  
25 witness?

1 MS. FLAHERTY: He's not our witness, no.

2 JUDGE BARTON: Would you like him to step  
3 out insofar as you may call him?

4 MR. STRETTON: It's possible I may call  
5 him. I haven't subpoenaed him yet, but I may call him  
6 depending on what his wife says.

7 MS. FLAHERTY: That would be a surprise  
8 for the Board.

9 MR. STRETTON: I think he's listed in our  
10 pretrial memo.

11 JUDGE BARTON: Well, if he's your  
12 witness, you can certainly ask him to step outside, and  
13 we will meanwhile resume the direct examination of  
14 Ms. Kale.

15 MR. REPYNECK: Your Honor, do I have to?

16 JUDGE BARTON: Sir, because you are  
17 listed as a witness and there's been a motion to  
18 sequester witnesses so that they don't hear the  
19 testimony of other witnesses, we would ask that you will  
20 wait outside in the waiting area. Thank you.  
21 Ms. Flaherty.

22 THE COURT CRIER: I want to remind the  
23 witness you're still under oath.

24 DIANE KALE, recalled as a witness, having  
25 been previously duly sworn, testified as follows:

1 DIRECT EXAMINATION (cont'd.)

2 BY MS. FLAHERTY:

3 Q. Good morning, Ms. Kale.

4 A. Good morning.

5 Q. Ms. Kale, can you please describe what you  
6 know about Attorney James Burke and parking tickets or  
7 citations, parking citations filed at Judge Tidd's  
8 court?

9 A. Parking tickets would come in. Most of those  
10 are mailed out.

11 Q. Can you speak up?

12 A. Parking tickets are filed in the court, and  
13 most of them are filed -- mailed out because they put  
14 something on the windshield, and if they don't respond,  
15 then they issue a citation. Citations for Mr. Burke  
16 would come in. They would be docketed and mailed out  
17 regular mail and certified mail. And then if they sign  
18 for the citation, we waited 15 days for a response. And  
19 at the end of that time if they didn't do anything a  
20 warrant was issued.

21 Q. And how were warrants that might issue to  
22 Attorney Burke handled at your court?

23 A. I normally did the warrants, and normally I  
24 would just issue warrants. I didn't inform the judge of  
25 who I was issuing warrants for. At some point for

1 Mr. Burke he came in and said a warrant for my arrest  
2 was issued, and then I was questioned by the judge on  
3 why I issued a warrant for Attorney Burke. I said that  
4 was procedure, he didn't respond, I issued a warrant.

5 Q. And what did Judge Tidd say to you?

6 A. He wasn't happy. He said I should have let  
7 him know that there was a warrant going to be issued for  
8 him and in the future if it occurred he was to be  
9 notified before --

10 Q. Who was to be notified?

11 A. The judge said to let him know before I  
12 issued a warrant for Attorney Burke.

13 Q. And when you say judge, do you mean Judge  
14 Tidd?

15 A. Judge Tidd, yes.

16 Q. So was that an ongoing instruction?

17 A. Yes.

18 Q. And did you follow that? Did you alert Judge  
19 Tidd when a warrant was going to issue to Attorney  
20 Burke?

21 A. I did.

22 Q. And once you advised Judge Tidd, what did he  
23 do?

24 A. He usually got on the phone to him and called  
25 him and said, you know, you need to come in and take

1 care of the citations.

2 Q. And what about if a warrant had already  
3 issued and was returned by a constable for Attorney  
4 Burke?

5 A. We were instructed -- there were a couple of  
6 warrants issued for Attorney Burke. Once we collected  
7 warrant fees, and the other time the judge instructed me  
8 to either cancel the fees so that the constable would  
9 not get paid or to put them on the county so that  
10 Attorney Burke wouldn't be required to pay them.

11 Q. What does that mean, putting it back on the  
12 county?

13 A. We enter -- we put it in and a cost sheet is  
14 submitted to the county for the constable to get paid  
15 the warrant fee.

16 Q. So would Attorney Burke end up having to pay  
17 in that instance?

18 A. The warrant fee, no.

19 Q. So in the first instance I think you  
20 mentioned that the constable was not to be paid. Is  
21 that it?

22 A. He did pay -- I believe he did pay one  
23 warrant fee. But after that, we were told to put it on  
24 the county cost sheet.

25 Q. Did you tell Judge Tidd at any time that that

1 was improper?

2 MR. STRETTON: Objection. There's no  
3 suggestion that is improper. Judges have a lot of  
4 discretion.

5 MS. FLAHERTY: I asked --

6 JUDGE BARTON: Overruled.

7 THE WITNESS: Yes, I did tell him that.  
8 I told him why should we turn it over to the county,  
9 he's no better than anybody else. Any other defendant  
10 that would come in they were required to pay the fees.  
11 I felt he should be -- Attorney Burke should have to pay  
12 them also.

13 BY MS. FLAHERTY:

14 Q. And what was the response from Judge Tidd?

15 A. To just do what he said.

16 Q. And did you?

17 A. Yes.

18 MR. STRETTON: I'm sorry, I couldn't hear  
19 what she said.

20 JUDGE BARTON: Would you repeat -- we'll  
21 ask the court reporter can you repeat the question and  
22 then the answer, please.

23 MR. STRETTON: Two questions. I didn't  
24 hear the end of the last one and then --

25 JUDGE BARTON: We'll go back two

1 questions, Madame Court Reporter.

2 (The court reporter read back the  
3 referred-to portion of the testimony.)

4 BY MS. FLAHERTY:

5 Q. So just to clarify, when Judge Tidd told you  
6 to just do it, did you continue to alert him when  
7 warrants would issue to -- were ready to issue to  
8 Mr. Burke -- or Attorney Burke?

9 A. Yes.

10 Q. In the Board complaint at Paragraph 97 we  
11 have six citation docket numbers for parking citations  
12 issued to Attorney Burke. Would you still have been  
13 working at the court during the period January 2010  
14 through November 30th, 2014?

15 A. Yes.

16 MS. FLAHERTY: And those cases are --  
17 dockets and case files are at Exhibit 49 through 54.  
18 And two other cases are listed at Paragraph 98,  
19 December 1st, 2014 through January 19th, 2016.

20 BY MS. FLAHERTY:

21 Q. And was it during that period that you did  
22 retire from Judge Tidd's court?

23 A. I retired in December 2014, yes.

24 Q. Do you recall at what point you left his  
25 court in December?



1           A.     I left early on to float to Judge Barner's  
2 office, so I was gone pretty much the whole month of  
3 December.

4           Q.     So during the time that you were at the  
5 court, do you know if Judge Tidd instructed others to  
6 inform him when warrants were ready to issue for  
7 Attorney Burke?

8           A.     Yes, we were all informed.

9           Q.     And who is all?

10          A.     Brenda Anthony, Cassie Bettler.

11          Q.     Do you recall -- when Judge Tidd would  
12 contact Attorney Burke, do you recall the language that  
13 he would use when advising Burke of the citations? We  
14 have quoted language. I believe it's from a log. If  
15 you can verify, if he, Burke is in parentheses, didn't  
16 take care of it, I would be forced to issue a warrant.

17          A.     Yes.

18          Q.     Thank you.

19                   MS. FLAHERTY: We're now going to proceed  
20 to Section E, Failure to Recuse.

21 BY MS. FLAHERTY:

22          Q.     Diane, do you recall Judge Burke appearing --  
23 excuse me, do you recall Attorney Burke appearing at  
24 Judge Tidd's court representing clients?

25          A.     Yes.

1 Q. And do you recall Judge Tidd speaking on the  
2 telephone with Attorney Burke?

3 A. Yes.

4 Q. And how is it that you would know when he was  
5 speaking with Attorney Burke?

6 A. Because we usually -- we answer the phone,  
7 and he would say who it was and he wanted to speak to  
8 the judge.

9 Q. And where would Judge Tidd be sitting when he  
10 was on the phone with -- when he took phone calls  
11 generally?

12 A. Right -- there were four desks in the office,  
13 and he was in the fourth desk.

14 Q. Did the fourth desk have a telephone?

15 A. Yes.

16 Q. Do you know if that telephone had originally  
17 been in his chambers?

18 A. It was in the chamber at one point, but it  
19 was at the back desk.

20 Q. It was transferred out from the chambers to  
21 the desk?

22 A. Yes.

23 Q. So he would carry on his conversations out  
24 there in the reception area or your working station area  
25 so you would overhear conversations?

1           A.     All the time, yes.

2           Q.     Did Judge Tidd speak with Attorney Burke on  
3 the telephone on a frequent basis?

4           A.     Yes.

5           Q.     Can you estimate how often?

6           A.     Probably a couple times a week.

7           Q.     And did you observe Judge Tidd and Attorney  
8 Burke going out to lunch?

9           A.     Yes. They would talk about -- after he was  
10 done in the morning session, they would leave to go --  
11 where are we going for lunch, yes, I heard that.

12          Q.     Can you estimate how many times you observed  
13 them going out to lunch?

14          A.     It was probably once or twice a month.

15          Q.     And when you say once or twice a month, over  
16 what period of time?

17          A.     From when I started in April of 2010 to when  
18 I left in December of 2014.

19          Q.     At any time did you speak with Judge Tidd  
20 about transferring Attorney Burke's cases to another  
21 court?

22          A.     When I -- in the first few months I was  
23 there, yes, we did mention to him, you know, did he want  
24 us to have it transferred because of their friendship,  
25 and his response was always, no, it's fine.

1 Q. And when you say we spoke to him about it,  
2 who would you mean?

3 A. Myself and Brenda Anthony.

4 Q. And did you raise the issue with him on more  
5 than one occasion?

6 A. Yes.

7 Q. And how did he respond each time?

8 A. Each time he said it's fine, I can -- I'll be  
9 able to handle it.

10 Q. Did you continue to advise him throughout  
11 your time at the court?

12 A. No, I did not.

13 Q. And why is that?

14 A. Because it fell on deaf ears and he was the  
15 judge, so.

16 MS. FLAHERTY: We're going to now turn to  
17 Paragraph 118. This is the Commonwealth versus Blair  
18 matter. It's at Exhibit 58 and log entry Exhibit 7,  
19 Page 32 through 33.

20 BY MS. FLAHERTY:

21 Q. Diane, were you still employed at Judge  
22 Tidd's court in May of 2013?

23 A. Yes.

24 Q. Were you aware of a case Commonwealth versus  
25 Blair that involved the landlord of the district court?

1 A. Yes.

2 Q. Was the Commonwealth versus Blair case  
3 assigned to Judge Tidd's court?

4 A. Yes.

5 Q. Did you speak with Judge Tidd about  
6 transferring that case?

7 A. It was either myself or Brenda Anthony, yes.

8 Q. And how did he respond?

9 MR. STRETTON: Objection. She's not sure  
10 she spoke. She said she or Anthony.

11 JUDGE BARTON: Do you have a response?

12 MS. FLAHERTY: Yes. I can rephrase the  
13 question.

14 BY MS. FLAHERTY:

15 Q. Were you present during a discussion with  
16 Judge Tidd about whether that case should be  
17 transferred?

18 A. Yes.

19 Q. And was Judge Tidd advised by one of you to  
20 transfer the case?

21 A. Yes.

22 Q. And how did he respond?

23 A. His initial response was let me check into  
24 it.

25 Q. And do you recall if he planned -- did he

1 tell you that he planned to speak with the officer about  
2 whether the police chief made him write the citation?

3 A. Yes.

4 Q. And did he indicate that he would transfer  
5 that case?

6 A. No.

7 Q. What did he decide to do?

8 A. He decided to keep it.

9 Q. And what was -- do you recall the ultimate  
10 decision in the case?

11 A. He dismissed it.

12 MS. FLAHERTY: May I ask the Court's  
13 indulgence and my apology to Ms. Kale. We've just  
14 received notification that the videoconferencing is  
15 still an issue but the testimony from Judge McFadden can  
16 be obtained via telephone conversation. But she's only  
17 available for the next 20 minutes, so if I may excuse  
18 Diane once again and then recall you, we will not be  
19 long with our other witness.

20 JUDGE BARTON: Thank you, Ms. Kale. You  
21 may step down. And we can arrange for Judge McFadden.

22 Judge, good morning. This is Judge  
23 Barton. I am the presiding officer on the trial panel  
24 in this case. I want to alert you to the fact that you  
25 are on the speaker phone in the courtroom here in the

1 judicial center. Good morning to you.

2 JUDGE McFADDEN: Good morning.

3 JUDGE BARTON: Just let us know when  
4 you're ready to proceed.

5 JUDGE McFADDEN: I'm ready.

6 JUDGE BARTON: Okay, first, Your Honor,  
7 although it used to be the case we didn't swear judicial  
8 officers in to give testimony, however, I guess that's  
9 been a few years ago. Ms. Flaherty, do you have  
10 questions for this witness?

11 MS. FLAHERTY: Yes.

12 JUDGE F.P. KIMBERLY McFADDEN, called as a  
13 witness, having been duly sworn, testified as follows:

14 DIRECT EXAMINATION

15 BY MS. FLAHERTY:

16 Q. Good morning, Judge McFadden.

17 A. Good morning.

18 Q. Would you please state your full name and  
19 spell your last name for the court reporter.

20 A. It's Frances Paula Kimberly McFadden. Last  
21 name is spelled, M-as in Michael-c-F as in  
22 Frank-a-d-d-e-n.

23 Q. And where do you reside?

24 A. In Bethlehem, Pennsylvania.

25 Q. Judge McFadden, could you please explain to

1 the Court your educational background.

2 A. Yes. I graduated from Bryn Mawr College and  
3 then went on to law school at Villanova University.

4 Q. And also if you could review your  
5 professional background.

6 A. I practiced for 10 years, became a judge of  
7 this court by appointment from then Governor Casey in  
8 1988 and ran for my first term in 1989 and have been on  
9 the bench since 1988.

10 Q. And during your term on the bench, have you  
11 had occasion to serve as president judge?

12 A. Yes, I did. From 2008 to 2013 I was the  
13 first elected president judge in Northampton County.

14 Q. And can you please explain what your duties  
15 as president judge include?

16 A. Well, when you're president judge in  
17 Northampton County, they include just about everything  
18 from people pulling on you to decide whether they can  
19 get more legal pads to issues of budget, et cetera.

20 Q. And is one of your -- was one of your  
21 responsibilities as president judge the supervision of  
22 magisterial district judges?

23 A. Yes, through the office of court  
24 administration and a deputy court administrator whose  
25 name is Debbie French. She was the first point person



1 in that chain of command.

2 Q. And are you familiar with former Magisterial  
3 District Judge David W. Tidd?

4 A. Yes.

5 Q. And did you have occasion to supervise his  
6 work as a magisterial district judge?

7 A. Yes. When it came to the attention of Debbie  
8 French and then she intervened with me for meetings that  
9 I believe we had here at the courthouse.

10 Q. And do you recall dating back to 2011 that  
11 Debra French received complaints from the court clerks  
12 at Judge Tidd's district court?

13 A. Yes.

14 Q. And did Debra French advise you of the  
15 content of those complaints?

16 A. I believe that she did. I'm sure she did. I  
17 did not keep notes about any of these meetings or any of  
18 the concerns. This stuff usually happens between court  
19 things that I was involved in here at the courthouse.

20 Q. And so did you rely on Debra French to be the  
21 keeper of records for the meetings that you engaged in  
22 with Judge Tidd?

23 A. Yes, I did.

24 Q. And have you had a chance to review her  
25 documentation of the meetings that you attended with

1 Judge Tidd?

2 A. Yes.

3 Q. And do you view those notes as being  
4 accurate?

5 A. Yes. Although I will say to you that I don't  
6 have independent recollection of the dates of the  
7 meetings, Debbie took the notes, and I have complete  
8 faith in the notes that she took.

9 Q. And do you recall that there was a meeting on  
10 August 11, 2011 with Judge Tidd?

11 A. I believe there might have been a meeting. I  
12 don't remember the date.

13 Q. According to Debra French's notes, the  
14 meeting took place on August 11th, 2011. Does that -- I  
15 would like to ask you, you remember the meeting itself,  
16 just not the exact date. Is that right?

17 A. Exactly, precisely, yes.

18 Q. Do you recall during that meeting that there  
19 was a discussion of a conflict of interest with Judge  
20 Tidd?

21 A. I remember that there was a discussion of a  
22 case that I believe was in front of him. I think the  
23 name was Nieves. But the details of that conflict I  
24 don't remember. I would have to rely on what Debbie has  
25 on her notes.

1 Q. Do you recall whether Judge Tidd told you at  
2 that time that he had sought an advisory opinion from  
3 the Special Court Judges Association Professionalism and  
4 Ethics Commission?

5 A. I do remember that he said he did refer to  
6 someone -- it must have been that if that's what Debbie  
7 has in her notes -- and that he was awaiting an opinion  
8 from them.

9 Q. And was it your expectation that Judge Tidd  
10 would provide you a copy of that advisory opinion?

11 A. I think that that was the request or that he  
12 suggested he would, and I don't ever remember seeing  
13 such an opinion. I don't know that Debbie did either.

14 Q. Do you recall another meeting with Judge Tidd  
15 that took place in February of 2012?

16 A. If you tell me that it's in her notes, then  
17 it happened.

18 Q. It is in her notes. Do you recall that  
19 during that meeting you -- do you recall what was  
20 discussed at that meeting?

21 A. On February -- when was it, February of 2012?

22 Q. Yes, February 13th, 2012.

23 A. No, I don't remember. But if you try to  
24 refresh my recollection unless you want me to look at  
25 the notes.

1           Q.     If you would like to take a moment to look at  
2     that and refresh your recollection and then set it  
3     aside, that would be helpful.

4                   MR. STRETTON:  Objection.  It's not the  
5     way you refresh recollection.  It has to be your notes.

6                   THE WITNESS:  I have no such notes.

7                   JUDGE BARTON:  One moment.

8     BY MS. FLAHERTY:

9           Q.     You don't have those notes with you, so  
10    that's fine.

11                   THE WITNESS:  I have the notes of Debbie  
12    French, but I don't have personal notes.

13                   JUDGE BARTON:  Your Honor, one second,  
14    please.  Ms. Flaherty, one second, please.  Objection is  
15    overruled.  Refreshing recollection can be --

16                   THE WITNESS:  Okay.

17                   JUDGE BARTON:  A classic example you can  
18    use a teddy bear to refresh her recollection, so she's  
19    choosing to use someone else's notes.  That's overruled.

20                   THE WITNESS:  Oh, yes.  This is the one  
21    where something about he didn't want to wear his robe or  
22    he wasn't wearing his robe.

23     BY MS. FLAHERTY:

24           Q.     Yes.

25           A.     Yes.

1           Q.       It's on Page 2 of the memo to files. That  
2 first page is dated August 11th, and then the next to  
3 the last entry on Page 2 is February 13th. If you want  
4 to take a moment to read through that and then I can ask  
5 you a couple of follow-up questions.

6           A.       Okay.

7                   MS. FLAHERTY: And that's at Exhibit 28.

8                   THE WITNESS: Okay, I'm ready.

9 BY MS. FLAHERTY:

10           Q.       First of all, did you -- at that meeting did  
11 you inform Judge Tidd that you had received complaints  
12 about him?

13           A.       Yes.

14           Q.       And who had complained to you?

15           A.       I believe it was at a Christmas party the  
16 Christmas before this meeting that I unsolicited  
17 received a complaint from a person at the party. I  
18 don't remember who the person was, but.

19           Q.       And besides that Christmas party, did you  
20 have complaints from other individuals about Judge  
21 Tidd's conduct?

22           A.       I heard rumors about Judge Tidd's conduct,  
23 but no one filed a formal complaint except I think I  
24 remember there were some police officers who were  
25 unhappy with him. And I don't -- again, I don't know

1     which police officers. That must have been the  
2     Hellertown Police or Lower Saucon.

3           Q.     During that meeting, did you discuss Judge  
4     Tidd's use of four-letter words?

5           A.     I don't know that I did. I think we talked  
6     about that at some point in -- I think I had three  
7     meetings with him, and I believe that may have come up.  
8     I have no independent recollection of the four-letter  
9     words, though, that we discussed. I know that it was a  
10    complaint.

11          Q.     Well, within the document that you just -- or  
12    the entry that you just read, there was some information  
13    about the four-letter words. I don't know if you need  
14    another moment to refresh your recollection.

15          A.     On the paragraph of 2/13/12 I don't see  
16    anything about four-letter words. Oh, yes, yes, I do,  
17    yep. Sorry, his use of four-letter words and difficulty  
18    in scheduling afternoon hearings. So if it's in that  
19    note, it must have happened, but I don't have an  
20    independent recollection about it.

21          Q.     Within that note that you just reviewed,  
22    there's also mention of telling him to conduct hearings  
23    in the courtroom while wearing his robe. Do you  
24    remember a discussion about those issues?

25          A.     I remember -- I only remember that if it's

1 here on the note from Debbie that it happened, but  
2 beyond that I don't have an independent recollection of  
3 looking him in the eye and telling him that. I'm sure I  
4 did if it's in the note.

5 Q. So at this time you're testifying to the  
6 accuracy of the notes by Debra French, but your  
7 recollection is only after it's refreshed, it's not --

8 A. Yes.

9 Q. -- it's not a spontaneous recollection?

10 A. Right.

11 Q. But you do recall the meetings?

12 A. Yes, I remember that there were three and --  
13 it's kind of like three strikes and you're out -- if you  
14 have to come back in here again, I'm reporting you.

15 Q. Did you tell him that you would report him to  
16 the Judicial Conduct Board?

17 A. I believe I did, yes.

18 Q. And how did he respond?

19 A. Well, I don't know that -- I don't remember  
20 that he responded at all. I mean, I think he was kind  
21 of concerned, seemed to be concerned. I don't remember  
22 there being an argument. I just sort of made the  
23 statement, and that's what it was going to be.

24 Q. Have you ever handled complaints about a  
25 judicial officer other than Judge Tidd not wearing his

1 robe?

2 MR. STRETTON: Objection.

3 THE WITNESS: I don't think so, not  
4 while -- while I was president judge, no, I don't  
5 remember any.

6 JUDGE BARTON: Mr. Stretton, do you have  
7 an objection?

8 MR. STRETTON: I just objected to any  
9 other judicial officer in confidentiality and that, but  
10 since she's already answered, I'll withdraw.

11 BY MS. FLAHERTY:

12 Q. Do you recall ever being pulled out of court  
13 to address these issues that arose regarding Judge Tidd?

14 A. Yes.

15 Q. And so do you recall what that incident was  
16 about?

17 A. No. But I do remember being on the bench in  
18 arraignment court, and I believe Debbie and Jim Onembo  
19 who was our then court administrator met with him, and  
20 Mr. Onembo came into the courtroom in the middle of the  
21 buzz of arraignment court and said you need to come and  
22 address this. And I had to step down from the bench.  
23 And I think we met in the chambers of that courtroom  
24 briefly.

25 Q. And was the expectation that you were to



1 correct Judge Tidd on his conduct?

2 A. Well, the expectation was that whatever it  
3 was that he was called in for that time I was to address  
4 with him. But meanwhile, you know, I was conducting  
5 business in the courtroom, so I didn't -- I don't  
6 remember it being a long discussion.

7 Q. Did you admonish him?

8 A. Yes, I think I did.

9 Q. Have you had an opportunity to review the  
10 Board's complaint?

11 A. Yes. I have that here, too, if you want me  
12 to look at something.

13 Q. No. I just wanted to make sure that you had  
14 an opportunity to review it. My next question is, are  
15 you -- were you familiar with Judge Tidd prior to his  
16 election to the bench?

17 A. Yes.

18 Q. And what was your knowledge of him?

19 A. He had -- he practiced here in Northampton  
20 County, and on occasion -- we randomly assign cases from  
21 our miscellaneous hearing list on a Friday, and on  
22 occasion I would have an assignment that involved him as  
23 an attorney.

24 Q. And what was his reputation in the community  
25 there in Northampton?

1 MR. STRETTON: Objection.

2 JUDGE BARTON: One moment, Your Honor.

3 MR. STRETTON: The Judge cannot give  
4 character or reputational testimony. It would be a  
5 violation of the rules of judicial conduct. The only  
6 way she can do it is to get permission from our Supreme  
7 Court, and they've never given it. I've tried  
8 repeatedly over the years to get it. So I hate to see  
9 her respond if she gives her opinion on character.

10 MS. FLAHERTY: I appreciate that input  
11 from Mr. Stretton. I was unaware and certainly would  
12 not have posed the question had I been.

13 THE WITNESS: So the question is  
14 withdrawn?

15 MS. FLAHERTY: Yes, it is.

16 THE WITNESS: Thank you.

17 BY MS. FLAHERTY:

18 Q. Having read the complaint and knowing the  
19 meetings you had with Judge Tidd in the past, do you  
20 believe that the meetings were effective?

21 MR. STRETTON: Objection.

22 JUDGE BARTON: Basis of your objection?

23 MR. STRETTON: I'm not sure how anyone  
24 could answer that. There's no more meetings. She then  
25 finished her term as president judge and has been

1 serving as a good common pleas judge. Judge Baratta  
2 took over. I mean, effective, I don't know what that  
3 means.

4 JUDGE BARTON: Do you have a response?

5 MS. FLAHERTY: I can rephrase.

6 JUDGE BARTON: Okay.

7 BY MS. FLAHERTY:

8 Q. Judge McFadden, after your first meeting with  
9 Judge Tidd, did you believe that your feedback elicited  
10 changes in his conduct?

11 A. I was hopeful that it had, but then I had two  
12 more meetings.

13 Q. And after the second meeting with Judge Tidd,  
14 were some of the same issues discussed again?

15 A. I think so.

16 Q. So after that --

17 A. The complaints continued.

18 Q. Complaints continued. And after your third  
19 meeting, did you believe that it had -- you had effected  
20 change?

21 A. Well, after the third meeting -- I think  
22 there was a period of time before I was done with my  
23 president judgeship that we didn't hear anything, so we  
24 assumed that maybe things were going well. When you  
25 hear nothing, you assume the best, and I had no reason

1 to expect anything else.

2 Q. At any time did you meet with the court  
3 clerks from Judge Tidd's district court?

4 A. No.

5 Q. Are you aware that Debbie French met with  
6 them?

7 A. Yes.

8 Q. Did you and Debbie French discuss whether or  
9 not those clerks should file a complaint?

10 A. I believe I suggested that they could if they  
11 chose to, and I think maybe Debbie suggested that to  
12 them as well. And there was some reticence on their  
13 part because they were working in that office I think,  
14 and that's where it was left. This was not something  
15 that -- I wasn't in that office on a daily basis, so  
16 that was a choice they had to make.

17 Q. So was it your understanding that they chose  
18 to remain anonymous?

19 MR. STRETTON: Objection.

20 THE WITNESS: I think -- I don't know  
21 what they --

22 JUDGE BARTON: Hold on, Your Honor,  
23 there's an objection.

24 THE WITNESS: Okay.

25 JUDGE BARTON: Mr. Stretton.

1 MR. STRETTON: She said she never talked  
2 to the clerks, everything went through Ms. French, so  
3 she would not be in a position to answer that.

4 JUDGE BARTON: Ms. Flaherty.

5 MS. FLAHERTY: Ms. French was working  
6 directly with Judge McFadden on the issues of  
7 supervising MDJ Tidd's court and fielding the complaints  
8 from the clerks on behalf of Judge McFadden, so I was  
9 asking the question if she was aware if the court clerks  
10 through managing that case if she was aware if they  
11 chose to remain anonymous.

12 JUDGE BARTON: You'll be calling  
13 Ms. French --

14 MS. FLAHERTY: I will.

15 JUDGE BARTON: -- as a witness today. Is  
16 that correct?

17 MS. FLAHERTY: Yes.

18 JUDGE BARTON: Since I think she is the  
19 best source, I'll sustain the objection, and you can get  
20 that from her.

21 MS. FLAHERTY: Certainly.

22 BY MS. FLAHERTY:

23 Q. Judge McFadden, who is serving as the  
24 president judge there in Northampton County now?

25 A. Stephen Baratta.

1 Q. And are you aware that Judge -- President  
2 Judge Baratta is on vacation out of the country at this  
3 time?

4 A. Yes, much needed and I'm glad for him.

5 Q. Did he ask you to advise the Court that he  
6 would be available if needed --

7 A. Yes.

8 Q. -- upon his return?

9 A. Yes. I don't think he wants to be doing this  
10 from overseas, so.

11 MS. FLAHERTY: Thank you very much.

12 THE WITNESS: You're welcome.

13 MS. FLAHERTY: I do not have any more  
14 questions for you at this time.

15 THE WITNESS: Thank you.

16 MS. FLAHERTY: So I'll turn you over to  
17 Mr. Stretton.

18 JUDGE BARTON: Mr. Stretton, do you have  
19 any questions in the nature of cross-examination for  
20 Judge McFadden?

21 MR. STRETTON: I do but briefly.

22 CROSS-EXAMINATION

23 BY MR. STRETTON:

24 Q. Good morning, Judge McFadden.

25 A. Good morning.

1 Q. It's been a long time since I've been in your  
2 courtroom.

3 A. Yes.

4 Q. I think it was Dr. Pacifico many years ago.

5 A. Oh, my goodness indeed.

6 Q. That was before you were even president  
7 judge.

8 A. Yes, it was.

9 Q. You've got a good memory. I wasn't sure  
10 you'd remember the name.

11 A. Oh, I remember that. Yes, I do.

12 Q. Well, let me get serious now. You met with  
13 my client, David Tidd, on three occasions, late 2011 and  
14 the last occasion being February of 2012. Am I correct,  
15 Your Honor?

16 A. I believe so. That's what the notes reflect,  
17 yes.

18 Q. On each of those meetings there -- the first  
19 meeting you had was a little more specific. It involved  
20 a conflict of interest in the Nieves case where Judge  
21 Tidd had certain matters in his courtroom but his office  
22 a number of years before had filed bankruptcy litigation  
23 for Ms. Nieves. Am I right?

24 A. I think so, yes.

25 Q. And during that, you and Judge Tidd discussed

1 issues of conflict when one's a judge and handling  
2 responsibilities and at the same time would have as a  
3 district judge has a private practice. Am I right?

4 A. I believe so, yes.

5 Q. And Judge Tidd said he was consulting with  
6 the magistrates' state ethics committee for the district  
7 judges of Pennsylvania. Am I right?

8 A. That's my memory, yes.

9 Q. And he said he was seeking some sort of  
10 advisory letter?

11 A. Yes.

12 Q. And to your recollection, you don't recall  
13 whether you received that letter or not or your staff  
14 did?

15 A. I don't remember seeing it. If it was  
16 received, it would probably have been received by Debbie  
17 French.

18 Q. The second issues that were discussed in I  
19 guess collectively in these three meetings were Judge  
20 Tidd wearing his robe in the courtroom. Am I correct?

21 A. Right, yes.

22 Q. And you told Judge Tidd that he should wear  
23 his robe when he's on the bench or in the courtroom. Am  
24 I right?

25 A. I think so, yeah.



1           Q.       But there is an issue about him at the  
2 counter receiving waivers and things of that nature.  
3 Was there any discussion about wearing the robe at the  
4 counter, or don't you have a recollection?

5           A.       I don't have a recollection about a robe at  
6 the counter. I do remember the phrase fast food justice  
7 because it was kind of informal the way he was doing  
8 things in his office which, you know, he was -- it was  
9 suggested to him that there were better ways to proceed.

10          Q.       And who used that term? Was that your use,  
11 or was that Ms. French's use, or is it just a word you  
12 had heard through the rumor mill in Northampton County?

13          A.       I think through the rumor mill, and it may  
14 have been repeated by Jim Onembo, the court  
15 administrator at the time.

16          Q.       You never had any complaints, though, from  
17 clients of Mr. Tidd -- not clients, excuse me, litigants  
18 in former Judge Tidd's courtroom, did you, Your Honor?

19          A.       I believe that the person, whoever that was,  
20 and I honestly don't remember who talked to me at a  
21 Christmas party, may have been a litigant in front of  
22 him and that's how it came up.

23          Q.       Other than that, you received no other  
24 complaints. Am I right?

25          A.       Well, as I said earlier, there were police

1 officers who were unhappy. I don't remember who they  
2 were, what their intentions were, what their complaint  
3 was. I think it had to be with accessibility to  
4 hearings. But I don't have any of that paperwork, and I  
5 don't -- I can't say definitively when that happened or  
6 what it was about.

7 Q. So what was discussed at those three meetings  
8 was conflict of interest, i.e. Nieves, wearing one's  
9 robe, and finally be careful of your language?

10 A. And the language, yes.

11 Q. There was no other specificity given former  
12 Judge Tidd at those meetings as to what he was doing  
13 right or what he was doing wrong. Is that a fair  
14 statement?

15 A. I don't know that that's true. I think that  
16 whatever information was provided at those meetings was  
17 provided to Debbie French, repeated by Debbie French in  
18 the context of the meeting and the admonitions were  
19 given thereafter.

20 Q. Well, you saw the notes that Ms. French made.

21 A. Yes.

22 Q. And pretty much I've summarized the substance  
23 of those meetings in my --

24 A. Yes.

25 Q. What I --

1           A.     But I just want you to understand that it  
2     wasn't just, hi, wear your robe, stop using the F word,  
3     leave the office. Debbie was -- if anyone had been  
4     specific about the complaints that were coming both from  
5     staff and from the public, she was the one that would  
6     bring that up and let everybody know what we're talking  
7     about, and then I would admonish him about his behavior.

8           Q.     Judge Tidd has told me that other than the  
9     subject matters that I raised with you that there was no  
10    specificity given him at the meetings even though he  
11    asked for more specific complaints. Do you have a  
12    recollection of Judge Tidd making that request?

13          A.     No, not at all.

14          Q.     Now, during this time period, we know from  
15    the records here that starting in about November or  
16    December of 2011 Ms. French asked one of the clerks at  
17    Judge Tidd's office to start submitting weekly  
18    complaints or weekly summaries about Judge Tidd.

19          A.     Right.

20          Q.     Did you authorize that?

21          A.     I don't think we talked about it.

22          Q.     Were you aware at some point particularly  
23    during the time of the last meeting in February 2012  
24    that there had been weekly complaints submitted by  
25    Ms. LeVan and others -- other clerks including Ms. Kale

1 to Ms. French about Judge Tidd during that time period?

2 A. I did not know the names of the individuals,  
3 but I did know that there were a series of constant  
4 complaints about his behavior.

5 Q. And were you aware that those complaints  
6 continued to come in at the urging of Ms. French during  
7 2012, 2013, and 2014 on a weekly basis?

8 A. I am aware that there were complaints that  
9 were constant. I don't know if they were on a weekly  
10 basis or just whenever they popped up. If they popped  
11 up on a weekly basis, then unfortunately I'm sure they  
12 submitted them.

13 Q. Did you ever consider bringing Judge Tidd in  
14 and showing him these complaints so he could respond  
15 and/or reform his conduct?

16 A. Not during -- only the meetings that I had  
17 with him and to the extent that these folks did not want  
18 retaliation from the -- in the workplace and so -- I was  
19 done in I believe early June of 2013.

20 Q. But at least during your tenure you never  
21 instructed Ms. French or you, yourself, never called or  
22 met with Judge Tidd and said, look, I'm going to  
23 summarize these specific complaints on this day X, this  
24 day Y so he could have a chance to reform or change his  
25 conduct, you never did that nor told Ms. French to do

1 that. Am I right?

2 A. I don't remember ever saying that, and I --  
3 when we talked in our meetings about his behaviors, I  
4 was as specific -- as much specific as these notes  
5 indicate.

6 Q. Now, in the one note you had mentioned and  
7 you also so testified that three strikes and you're out,  
8 that is you had met with him three times and if there is  
9 going to be new complaints you would report him to the  
10 Judicial Conduct Board, if I recall --

11 A. Yes.

12 Q. Now, you never did report him to the Judicial  
13 Conduct Board?

14 A. Nope.

15 Q. And were you aware that despite these  
16 complaints that they were being held no one sent them to  
17 the conduct board timely or to anyone or to Judge Tidd  
18 timely so there could have been a response or a defense  
19 on a timely basis?

20 A. I only know what I didn't -- what I did do,  
21 not what I didn't do. We offered to the staff to make  
22 that complaint for them, and they asked us not to, so.  
23 They were concerned about retaliation.

24 Q. Were you aware -- excuse me one second, Your  
25 Honor. I just want to pull this paper out. Were you

1 aware that over the years Judge Tidd's record of  
2 disposition and handling of the cases was excellent, he  
3 was one of the top producers in your county as district  
4 judge and had almost no backlog? Were you aware --

5 A. No, I was not.

6 Q. Did you ever look -- I'm looking at all the  
7 statistics here. I can't show them to you because we're  
8 long distance. But you never checked to see that during  
9 this time period if he was performing his duties in an  
10 efficient fashion?

11 A. The only thing I checked on was his behavior  
12 in the courtroom. I don't -- I don't sit on top of the  
13 magistrates. That's not my job. I oversee when -- I  
14 oversaw when there was a problem, and the problems were  
15 what were coming to me.

16 Q. And were you aware, and I have the documents,  
17 I can't show them because I'm too far away from you,  
18 that his office was regularly audited by the appropriate  
19 agencies?

20 A. Well, I would assume so.

21 Q. And there was no discrepancies, no problems  
22 with the audits or anything during that time period?

23 A. I was not aware of it, but I don't have any  
24 reason to doubt you.

25 Q. So after February of 2012 then, you had no

1 other meetings with District Judge Tidd about his  
2 conduct in his courtroom or some of the issues that were  
3 raised here?

4 A. I don't believe so.

5 MR. STRETTON: Thank you very much. It's  
6 a pleasure talking to you, Judge.

7 THE WITNESS: Nice talking to you, too.

8 JUDGE BARTON: Ms. Flaherty, any  
9 redirect?

10 MS. FLAHERTY: No, I have no redirect.  
11 Thank you.

12 JUDGE BARTON: Judge McFadden, thank you  
13 so much for taking time from your day to appear in this  
14 matter.

15 THE WITNESS: I'm pleased that we were  
16 able to finally get this going. I'm sorry the video  
17 didn't work, but this testimony I hope is sufficient.

18 JUDGE BARTON: Thank you so much, and you  
19 have a great day.

20 THE WITNESS: Thanks. You too.

21 JUDGE BARTON: I guess we will resume  
22 with the direct examination of Ms. Kale.

23 DIANE KALE, recalled as a witness, having  
24 been previously duly sworn, testified as follows:

25 JUDGE BARTON: Good morning again,

1 Ms. Kale. We thank you for your indulgence while we  
2 took President Judge McFadden's testimony out of order.  
3 Thank you, Ms. Flaherty. You may proceed.

4 MS. FLAHERTY: Thank you. If I could  
5 just have a moment to collect my thoughts, just a brief  
6 moment.

7 JUDGE BARTON: Certainly.

8 MS. FLAHERTY: We're proceeding to  
9 Section F of the Board complaint. Ms. Kale, I'm going  
10 to proffer a bit of information for the Court which  
11 means that I will advise them how I believe you will  
12 testify to this section because some of it is repetitive  
13 with what we've already covered with ex parte  
14 communication.

15 Ms. Kale will testify that Judge Tidd  
16 regularly worked things out at the counter rather than  
17 in the courtroom, that he would talk to the defendant or  
18 the police officer, whoever arrived first, that the  
19 hearings at the counter between 2011 and February of  
20 2016 included summary traffic trials, landlord/tenant  
21 hearings, preliminary hearings and -- waivers of  
22 preliminary hearings and preliminary arraignments.

23 MR. STRETTON: Just to make sure I  
24 understand, we're doing the procedure we discussed  
25 yesterday, but I just want to know which paragraph she's



1 reading. We agreed that she would say this. I just  
2 want to make sure that she's reading --

3 JUDGE BARTON: Are we deviating from the  
4 format of using paragraphs?

5 MS. FLAHERTY: As I mentioned earlier, I  
6 was not going to read every single paragraph into the  
7 record. I was going to try to introduce the information  
8 unless we get to a specific factual -- specific  
9 substantive court case at which time we will be more  
10 specific. These were some of the general allegations.  
11 If you'd prefer that we do it the other way, we can try.

12 MR. STRETTON: I'm okay this way as long  
13 as she references the paragraphs. I'm okay as we said  
14 last night to move this along that if she wants to read  
15 the paragraphs or summarize them.

16 MS. FLAHERTY: I'm trying to summarize  
17 them, and I will indicate the paragraphs.

18 MR. STRETTON: That that's what they  
19 would say the witness would testify to. I don't want to  
20 be hear until Christmas in this matter, so, but I just  
21 need to know the paragraphs so I can make sure they're  
22 within the confines of the summary.

23 JUDGE BARTON: If you would reference the  
24 paragraph numbers as you create the proffer, I think  
25 that would be helpful and that would satisfy

1 Mr. Stretton.

2 MS. FLAHERTY: Well, I can inform the  
3 Court that the only -- there's only two paragraphs that  
4 are stipulated to which are Paragraphs 121 and 125 out  
5 of this entire section.

6 MR. STRETTON: We understand that, but  
7 what we said last night I said I would allow her to read  
8 or summarize each of the other paragraphs with the  
9 proviso she would say though stipulated to them but  
10 that's what her witness would say.

11 JUDGE BARTON: Let me ask counsel to step  
12 forward, and we'll be off the record.

13 (Discussion held off the record at  
14 sidebar)

15 (Recess taken)

16 JUDGE BARTON: Good morning again,  
17 Ms. Kale. You're seated in the witness stand. You're  
18 becoming a professional witness. This I think is your  
19 fourth time sitting. You may proceed.

20 MS. FLAHERTY: Thank you.

21 DIRECT EXAMINATION (cont'd.)

22 BY MS. FLAHERTY:

23 Q. Welcome back.

24 A. Thank you.

25 Q. As I mentioned previously, we're going to

1 cover the Section F, Failure to Accord Full Right to Be  
2 Heard. Diane, we're going to switch it up yet again. I  
3 will be asking you questions going through paragraphs in  
4 the complaint, if you would listen closely, and I'll ask  
5 you if that's a correct statement.

6 A. Okay.

7 Q. At Paragraph 120 -- you were at Judge Tidd's  
8 court between 2011 and December 2014, correct?

9 A. Yes.

10 Q. And during that time, did he conduct summary  
11 traffic trials, landlord/tenant hearings, preliminary  
12 arraignments, and waivers of preliminary hearings at the  
13 counter?

14 A. Yes.

15 Q. Did he conduct any of those proceedings in  
16 the courtroom?

17 A. Very few.

18 Q. What were the circumstances under which he  
19 would go into the courtroom?

20 A. Where the officer would request that he  
21 wanted a hearing or the attorney would.

22 Q. Paragraph 121 is stipulated to. Paragraph  
23 122, same time period, 2011 through December of 2014, if  
24 a defendant were to request that a hearing be held in  
25 the courtroom, would Judge Tidd accommodate that

1 defendant?

2 A. Yes.

3 Q. Same time period, when a -- that in Paragraph  
4 123, when a defendant arrived for a scheduled traffic  
5 summary trial, did Judge Tidd encourage a plea agreement  
6 at the counter whether or not the police officer was  
7 present?

8 A. Yes.

9 Q. Did that occur on a routine basis?

10 A. Yes, it did.

11 Q. Between 2011 and December 2014 unless a  
12 criminal defendant or the defendant's attorney  
13 specifically requested a preliminary arraignment in the  
14 courtroom, did Judge Tidd routinely conduct the  
15 preliminary arraignments at the counter?

16 A. Yes, he did.

17 Q. Same time period, 2011 to December 2014,  
18 unless a criminal defendant or the defendant's attorney  
19 requested a waiver of a preliminary hearing in the  
20 courtroom, did Judge Tidd routinely conduct such waivers  
21 at the counter?

22 A. Yes, he did.

23 Q. Paragraph 126, same time period, 2011 to  
24 December 2014 --

25 MR. STRETTON: Just note my objection.

1 Remember, she's only there until 2014, and she's reading  
2 to 2016.

3 JUDGE BARTON: Actually she has been  
4 changing the dates when she's reading it. She  
5 references the paragraph, and she references the date  
6 through 2014, although it's been '15 in the paragraphs  
7 which I interpreted as being circumscribed by this  
8 witness's limited time of employment at the court. Is  
9 that correct, Ms. Flaherty?

10 MS. FLAHERTY: Yes. I've been very  
11 specific that the time period ended December 2014 for  
12 this witness.

13 JUDGE BARTON: Your specificity is noted.  
14 Objection is overruled. Please proceed.

15 BY MS. FLAHERTY:

16 Q. I believe we were at Paragraph 126. Between  
17 2011 and December 2014 when a criminal defendant opted  
18 to waive his or her preliminary hearing, did Judge Tidd  
19 routinely direct you or another clerk to explain the  
20 waiver process to that defendant?

21 A. Yes.

22 Q. Did Judge Tidd routinely forego explaining  
23 the legal process to the defendant himself?

24 A. Yes.

25 Q. Paragraph 127, between 2011 and December 2014

1 when pro se criminal defendants arrived for their  
2 scheduled preliminary hearings, did Judge Tidd routinely  
3 encourage them to waive hearings even when they had  
4 questions or when they were interested in obtaining an  
5 attorney?

6 A. Yes.

7 Q. Did that occur on a routine basis?

8 A. Yes, it did.

9 Q. Between 2011 and December 2016, did Judge  
10 Tidd tell pro se criminal defendants who appeared for  
11 preliminary hearings that those hearings could not be  
12 continued and they must decide that day whether or not  
13 to waive the hearing?

14 A. Yes, it did until December of 2014, yes.

15 Q. Thank you. Did I misread the date? I  
16 appreciate the correction. So that should stand at  
17 between 2011 and December 2014. Paragraph 129, between  
18 2011 and December 2014, did Judge Tidd conduct  
19 preliminary arraignments of criminal defendants without  
20 looking at the criminal complaint?

21 A. Yes, he did.

22 Q. Same paragraph, same time frame, 2011 to  
23 December 2014, did Judge Tidd conduct preliminary  
24 arraignments of criminal defendants without looking at  
25 the affidavit of probable cause?

1           A.     Yes, he did.

2           Q.     Did these two instances occur on a routine  
3 basis?

4           A.     Yes, they did.

5           Q.     Between 2011 and December 2016 when Judge  
6 Tidd presided over -- I got it wrong again. Between  
7 2011 and December 2014 when Judge Tidd presided over  
8 waivers of preliminary hearings at the counter, did he  
9 fail to inform the criminal defendants of the charges  
10 filed against them merely telling them to read the  
11 criminal complaint?

12          A.     That's correct.

13          Q.     Did that occur on a routine basis?

14          A.     Yes, it did.

15                   MS. FLAHERTY: Next paragraph is 131.

16 I'm going to modify from the way it's written to ask if  
17 Ms. Kale has information pertaining to this paragraph.

18 BY MS. FLAHERTY:

19          Q.     During the same time period, when Judge Tidd  
20 conducted preliminary arraignments, did you observe that  
21 he failed to inform each defendant of his right to an  
22 attorney?

23          A.     Occasionally, yes.

24          Q.     Did you observe that Judge Tidd failed to  
25 explain the criminal charges contained in the complaint

1 to the defendant?

2 A. Yes.

3 Q. Was that a routine basis?

4 A. Yes, it was.

5 Q. And was Judge Tidd focused on quickly  
6 completing the proceedings during that time frame?

7 A. Yes.

8 Q. Including preliminary arraignments?

9 A. Yes.

10 Q. In your observations of Judge Tidd performing  
11 video arraignments -- did you observe Judge Tidd  
12 performing video arraignments?

13 A. Yes.

14 Q. And how much time would he typically take to  
15 perform a video arraignment?

16 A. Three to five minutes.

17 Q. Between 2011 and December 2014, and this is  
18 at Paragraph 132, did Judge Tidd repeatedly instruct his  
19 court clerks to act in his stead and to handle court  
20 matters when he was absent from his court?

21 A. Until December 2014 for me, yes.

22 Q. Between 2011 and December 2014, did Judge  
23 Tidd ask you and other court clerks to act in his stead  
24 and handle court matters when he was busy in the  
25 courtroom?



1 A. Yes, he did.

2 Q. Did he ask -- during the same time period,  
3 did he ask you and other clerks to act in his stead and  
4 handle court matters when he would be otherwise  
5 occupied?

6 A. Yes, he did.

7 Q. Did this occur on a routine basis?

8 A. Yes, it did.

9 Q. What type of matters did Judge Tidd request  
10 that you handle in his stead?

11 A. Traffic hearings, civil cases,  
12 landlord/tenants, criminal waivers, nontraffic  
13 dispositions.

14 Q. Did he ask you to handle waivers of  
15 preliminary hearings?

16 A. Yes, he did.

17 Q. Did he ask you to handle preliminary  
18 arraignment and bail issues?

19 A. Yes, he did.

20 Q. Did he ask you to obtain the signatures of  
21 defendants on the appropriate paperwork in his absence?

22 A. Yes, he did.

23 Q. And then what would happen with that  
24 paperwork?

25 A. When he would come in, he would sign it.

1 Then we would be required to mail it to defendants.

2 Q. Did you also have to mail copies to central  
3 court or central booking?

4 A. Yes, we do send paperwork down to the county,  
5 yes.

6 Q. So was the signed paperwork on the  
7 preliminary arraignments and bail issues were those all  
8 held for his signature before going to central booking  
9 at the county? Am I saying the word right? Did you say  
10 central booking?

11 A. Well, we're -- you're talking arraignment and  
12 preliminary hearings. It's two different procedures for  
13 that.

14 Q. Please explain to the Court.

15 A. With the preliminary arraignment the  
16 paperwork would stay until he would sign it and we would  
17 have a preliminary hearing. The preliminary hearing, if  
18 I handled a waiver of preliminary hearing, it would wait  
19 for his signature on the formal arraignment and the  
20 other papers, and that would get sent -- because we have  
21 completed it, that would get sent down to the county.

22 Q. And in terms of the direction to you and  
23 other court clerks to handle matters, did you tell Judge  
24 Tidd that you did not want to follow this directive?

25 A. I did tell him that I -- it wasn't my job,

1 but I was instructed to just do it.

2 Q. How many times do you recall objecting to  
3 being told to handle matters?

4 A. In the beginning frequently and then I gave  
5 up.

6 Q. On numerous occasions -- do you recall on  
7 numerous occasions between 2011 and December 2014 that  
8 Judge Tidd told the court clerks they don't pay me  
9 enough to hold hearings?

10 A. Yes, I did.

11 Q. And during that same time period, do you  
12 recall Judge Tidd saying this is nothing but traffic  
13 court?

14 A. Numerous times, yes.

15 Q. I now direct your attention --

16 MS. FLAHERTY: And now we're at Paragraph  
17 134. I apologize if I've not named each paragraph. I  
18 am going in sequence.

19 BY MS. FLAHERTY:

20 Q. 134, do you recall November 30th, 2011 when  
21 Judge Tidd directed the court clerks to keep the  
22 hearings as scheduled for December 1st and to handle  
23 them in his absence?

24 A. Yes, I do.

25 Q. Did you participate in recording notes on

1 this event?

2 A. Yes, I did.

3 Q. And were those notes made contemporaneously  
4 or at the same time as this occurred?

5 A. Yes.

6 Q. On that date, November 30th, 2011, did Judge  
7 Tidd instruct you and other court clerks that despite  
8 his absence on December 1st, 2011 that you should accept  
9 reduced pleas from defendants who appeared for their  
10 summary traffic trials?

11 A. Yes.

12 Q. Paragraph 136, that on that same date on  
13 November 30th, 2011 did Judge Tidd instruct you and  
14 other clerks that despite his absence on December 1st  
15 they should process the paperwork where defendants  
16 wanted to waive preliminary hearings?

17 A. Yes.

18 Q. Did he advise you that he would sign the  
19 paperwork later?

20 A. Yes, he did.

21 Q. Do you recall if that was one of the days  
22 that you objected to the instruction?

23 A. I don't recall.

24 Q. On that same date, November 30th, at  
25 Paragraph 137 did Judge Tidd instruct you and other

1 court clerks that during his absence on December 1st  
2 they should reschedule proceedings only where the  
3 defendants insisted that you do so?

4 A. Yes.

5 Q. Did you have an opportunity to review the  
6 Board complaint prior to appearing here today?

7 A. Yes.

8 Q. And did you have an opportunity to look at  
9 Paragraph 138 where counsel listed a number of cases  
10 that were handled on December 1st, 2011?

11 A. Yes.

12 Q. And did you have an opportunity to look back  
13 into the records to determine who the court clerks were  
14 who signed off on those various cases?

15 A. Yes.

16 Q. And how would you sign off on the case?

17 A. For each entry in a case on a computer  
18 whoever puts in -- adds anything your first initial and  
19 last name appears each line on what occurs in each case.

20 Q. And so did you have an opportunity to check  
21 back into the MDJS system --

22 A. I did.

23 Q. -- on those cases? And did you determine who  
24 handled those matters on December 1st, 2011?

25 A. I did.

1 Q. And did you notice another clerk's name on  
2 some of those cases as well?

3 A. I did, yes.

4 Q. And who was that?

5 A. Lisa LeVan.

6 Q. This is pertaining to just generally because  
7 we've had prior testimony about the one case where bail  
8 was set that that was not a case that you had handled  
9 that day.

10 A. Correct.

11 Q. But in prior testimony you've said that you  
12 had been instructed in the past to handle preliminary  
13 arraignments and set bail. Could you describe to the  
14 Court whether or not you received instruction from Judge  
15 Tidd as to what the bail should be in a case listed for  
16 you to handle?

17 A. His normal bail was either ROR or \$1,500  
18 unsecured.

19 Q. For all of the cases?

20 A. Most, yes.

21 Q. For most of the cases that came before him  
22 for preliminary arraignments?

23 A. Yes.

24 Q. Can you spell out what you mean by ROR?

25 A. Released on their own recognizance.

1 Q. And when an individual defendant is released  
2 on his own -- his or her own recognizance, is that  
3 without any bail being set, or is that a type of bail?

4 A. There is no money required, no.

5 Q. But is it still considered a bail -- a type  
6 of bail?

7 A. Yes, it is.

8 Q. And in those cases where bail is set at  
9 \$1,500 would you have received instruction from Judge  
10 Tidd based on the cases listed on a calendar page? Let  
11 me back up. If Judge Tidd on day one says to you,  
12 handle matters on day two, would he have reviewed the  
13 calendar ahead of time for day two?

14 A. No, he would not.

15 Q. So he would not know what cases were  
16 necessarily listed the following day?

17 A. That's correct.

18 MR. STRETTON: Objection. How does she  
19 possibly know he didn't look at his calendar unless  
20 she's sitting next to him eight hours a day?

21 JUDGE BARTON: Sustained. The witness  
22 can answer to the extent she made an observation that he  
23 did or didn't. Obviously whether he did or didn't she  
24 can't say.

25 MS. FLAHERTY: I'll rephrase. Thank you.

1 BY MS. FLAHERTY:

2 Q. Let's go back to the hypothetical day one,  
3 day two. In those instances where Judge Tidd asked you  
4 the day before to handle matters the following day did  
5 you observe him checking through the list on the  
6 calendar page for day two?

7 A. No, I did not.

8 Q. Would you have had a discussion with him on  
9 day one about the pending cases on day two?

10 A. No, I did not.

11 Q. You stated a moment ago that Judge Tidd  
12 typically set bail one of two ways, ROR or 1,500 --

13 A. Unsecured.

14 Q. 1,500 unsecured, thank you. Did you observe  
15 Judge Tidd when he himself was setting bail in those  
16 preliminary arraignments --

17 A. Yes.

18 Q. -- at the counter? And when he conducted  
19 those preliminary arraignments, was a police officer  
20 necessarily present?

21 A. Not always, no.

22 Q. In the absence of a police officer would he  
23 review bail conditions or bail criteria to determine --  
24 with the defendant to determine the bail that should be  
25 set?



1           A.     No, he did not.

2           Q.     When an officer was present for a preliminary  
3 arraignment and you observed it at the counter, do you  
4 recall if he reviewed bail criteria with the officer  
5 prior to setting bail?

6           A.     Not very often.

7                     MS. FLAHERTY: I'll now proceed to  
8 Paragraph 139.

9 BY MS. FLAHERTY:

10          Q.     This is a case January 12th, 2012,  
11 Commonwealth versus Bortz. Were you at the court that  
12 day?

13          A.     Yes.

14          Q.     Do you recall that the defendant in that case  
15 requested a hearing and Judge Tidd acted annoyed?

16          A.     Yes.

17          Q.     Do you recall that Judge Tidd put on his robe  
18 and said to the defendant, go into the courtroom now?

19          A.     Yes.

20          Q.     And do you recall after the Bortz case  
21 hearing had completed what happened next?

22          A.     No.

23          Q.     Do you recall Judge Tidd coming out of the  
24 courtroom and throwing the citation onto the clerk's  
25 desk and stating, guilty, nobody stands a chance in a



1 hearing with me today?

2 MR. STRETTON: Objection. Her answer  
3 was, no, she didn't recall. I mean, to accommodate the  
4 Court, I'm letting her lead, lead, lead, lead. But at  
5 same point I'm going to get tired of this. And in some  
6 of the ways it's coming in my cross is not going to be a  
7 half hour, it might be three hours. I mean, there's so  
8 many things here just preposterous. He never looked at  
9 this. He never read complaints. I mean, at some  
10 point --

11 JUDGE BARTON: Well, the Court takes that  
12 testimony for its value.

13 MR. STRETTON: I know. But, I mean,  
14 she's under oath.

15 JUDGE BARTON: Obviously the witness  
16 can't know whether he looked at it not in her presence.

17 MR. STRETTON: But she said she did --  
18 she said he never did. That's her testimony under oath,  
19 and I intend to spend some time on that. I mean, I just  
20 assumed she wouldn't be saying things like that, but if  
21 you're going to have rank perjury, then we're --

22 JUDGE BARTON: I'll sustain the objection  
23 as to leading. The witness testified she didn't recall.  
24 There's limits as to how much we're going to let you  
25 lead.

1 MS. FLAHERTY: All right, well, then  
2 that's my -- I went off script a little bit just reading  
3 the paragraphs, so I guess that --

4 JUDGE BARTON: Well, whatever works best.

5 MS. FLAHERTY: Sure, sure.

6 JUDGE BARTON: I can tell you when  
7 there's an objection made I'm going to consider it and  
8 rule on it.

9 MS. FLAHERTY: Yes.

10 BY MS. FLAHERTY:

11 Q. Were you present at the court, Diane, on  
12 January 23rd, 2012?

13 A. Yes.

14 Q. Do you recall a case Commonwealth versus  
15 Richardson?

16 A. Yes.

17 Q. In that case the defendant and the citing  
18 officer, Trooper Ace, arrived at the court for an  
19 11:00 a.m. summary trial. Judge Tidd was behind -- in  
20 his office behind a closed door. Do you recall that on  
21 that date a court clerk accepted the defendant's guilty  
22 plea to a lesser charge in accord with Judge Tidd's  
23 instruction to handle court matters?

24 A. Yes.

25 Q. Were you present at court on January 24th,

1 2012?

2 A. Yes.

3 Q. Do you recall a matter Diehl versus Warjas?

4 A. Yes.

5 Q. In that case the defendant was represented by  
6 an attorney. Do you recall that Judge Tidd did not  
7 swear anyone in for that proceeding?

8 A. Yes.

9 MS. FLAHERTY: That was at Paragraph 141.  
10 We're now at Paragraph 142, and that is a Rule 540(A) of  
11 the Pennsylvania Rules of Criminal Procedure regarding  
12 audio-visual communication, so I would ask for judicial  
13 notice on that.

14 JUDGE BARTON: Court takes judicial  
15 notice of Rule 540 of the Pennsylvania Rules of Criminal  
16 Procedure.

17 BY MS. FLAHERTY:

18 Q. Do you recall Judge Tidd telling you about  
19 conducting preliminary arraignments when he was on night  
20 duty on February 6th, 2012 when the Polycom  
21 videoconferencing device took greater than 10 minutes to  
22 start up?

23 A. Yes.

24 Q. Do you recall Judge Tidd telling you that he  
25 presided over a number of preliminary arraignments

1 without the video feed?

2 A. Yes.

3 Q. Did you have an opportunity to review  
4 Paragraph 142 where it sets forth the cases that he  
5 presided over without video feed?

6 A. Yes.

7 Q. And were those the cases that were decided  
8 that date by him on night duty?

9 A. Yes.

10 Q. Did you have occasion to document that  
11 information in the log?

12 A. Yes.

13 Q. At Paragraph 144 do you recall Judge Tidd  
14 telling you and other clerks at his court about a  
15 February 8th, 2012 phone conversation with Deputy Court  
16 Administrator French pertaining to a February 13, 2012  
17 meeting?

18 A. Yes.

19 Q. Did Judge Tidd tell you that issues to be  
20 discussed at that planned meeting included his  
21 unavailability for court hearings and conducting  
22 hearings at the counter of the reception area of his  
23 court?

24 A. Yes.

25 Q. Were those some of the issues that you had

1 complained about to court administration?

2 A. Yes, it was.

3 Q. Paragraph 145, do you recall Judge Tidd  
4 telling you and other clerks at his district court about  
5 a February 8th, 2012 telephone conversation that he had  
6 with court administrators, Jim Onembo, O-n-e-m-b-o, and  
7 Debra French?

8 A. Yes.

9 Q. Do you recall Judge Tidd telling you that the  
10 issues to be discussed at that meeting included his  
11 judicial process and the priority he gave to his law  
12 practice over his responsibility as a judge?

13 A. Yes.

14 Q. Do you recall Judge Tidd telling you that the  
15 conversation on February 8th, 2012 also included mention  
16 that it was to be discussed at that meeting that there  
17 was an impression that his court was a fast food court?

18 A. Yes.

19 Q. Had you heard that expression before?

20 A. Yes.

21 Q. Where had you heard it before?

22 A. From the public that had come in and from  
23 police officers.

24 Q. What was your reaction when you heard that  
25 your court where you had worked for those years was

1 referred to as a fast food court?

2 MR. STRETTON: Objection.

3 JUDGE BARTON: Sustained.

4 BY MS. FLAHERTY:

5 Q. Were you present at district court on  
6 May 23rd, 2014 for the case -- when the case  
7 Commonwealth versus Clark was scheduled?

8 A. Yes.

9 Q. Clark had three -- I'll just read it. There  
10 were three cases, Commonwealth versus Clark, one for  
11 operation following suspension of registration, one for  
12 operation without required insurance, and one for  
13 operation while driving privileges suspended. Do you  
14 recall that?

15 A. Yes.

16 Q. Do you recall where Judge Tidd presided over  
17 those cases?

18 A. At the counter.

19 Q. And did you document that information in your  
20 notes that were then typewritten into the log?

21 A. Yes.

22 Q. Were you present at the court on August --  
23 this is Paragraph 147. Were you present at the district  
24 court on August 27, 2014 when a defendant needed to be  
25 arraigned in the case Commonwealth versus Passaro?



1           A.     Yes.

2           Q.     Do you recall that Judge Tidd conducted that  
3 arraignment via videoconferencing without an officer  
4 present?

5           A.     Yes.

6           Q.     Do you recall that during that arraignment  
7 Judge Tidd did not look at the criminal charges or  
8 explain them to the defendant and did not question him?

9                   MR. STRETTON:  Objection.  Two points.  
10 First, how is she going to answer that?  And, second, as  
11 I understand the law, a police officer doesn't have to  
12 be there through the arraignment.  Why are we wasting  
13 our time on this?  Ask a clerk, police officer wasn't  
14 there.  So what.  They don't have to be there for  
15 arraignments, happens all the time.

16                   And did he look at it or not, unless  
17 she's standing over his shoulder maybe people take  
18 things home at night, maybe they read it over lunch.  I  
19 mean, it's just -- it's getting absurd.

20                   So I object to this at this point.  I  
21 mean, we have to have it tied to some fact and  
22 recollection, not just read the paragraphs, yeah, yeah,  
23 yeah, yeah.  I mean, we're getting to the point where  
24 again I'm seriously thinking there's rank perjury here.  
25 She's just saying anything and things that she wouldn't

1 even know. And I just disagree with that.

2 I want to move these cases forward, but I  
3 don't want to make us the fast food court either. If  
4 this is the kind of testimony we're going to get, this  
5 is like also eating a McDonald's burger, we'll have had  
6 a heart attack in a month. So I object to the way this  
7 is going.

8 JUDGE BARTON: Thank you. And I think  
9 the -- I'm going to sustain in part at least the  
10 objection. I think the format needs to be read the  
11 paragraph, ask the witness if the witness has  
12 recollection of that event, and then perhaps the witness  
13 can add something beyond the written testimony based  
14 upon that witness's recollection of that specific event.  
15 The hour is now beyond 12:20. This Court -- I think  
16 this is a great time to take a lunch break. This Court  
17 will be in recess until 1:15. Thank you.

18 (Recess taken)

19 JUDGE BARTON: Good afternoon, everyone.  
20 Ms. Flaherty, you will resume.

21 MS. FLAHERTY: Good afternoon.

22 BY MS. FLAHERTY:

23 Q. Welcome back again, Diane. We're going to  
24 return to Paragraph 147. We had been discussing the  
25 case of Commonwealth versus Passaro, and I wanted to

1 just discuss what occurred at the end. Mr. Stretton  
2 correctly pointed out and also Judge Barton that it  
3 would be appropriate to rephrase. So during the  
4 arraignment in Passaro, the way it's written in the  
5 complaint is Judge Tidd did not look at the criminal  
6 charges, did not explain the charges to the defendant,  
7 and did not question him. Did you participate in  
8 documenting that information into the log?

9 A. Yes, I did.

10 Q. And by that phrase, did you observe Judge  
11 Tidd looking at the criminal charges in that case?

12 A. No, I did not.

13 Q. Did you observe Judge Tidd explaining the  
14 charges to the defendant?

15 A. No, I did not.

16 Q. And did you observe Judge Tidd questioning  
17 Passaro?

18 A. No, I did not.

19 Q. Is there anything else about that case that  
20 you can recall?

21 A. Not that particular case. He generally did  
22 not read complaints. He would sit in the back and yell,  
23 what are the charges to a police officer or to myself,  
24 and I would have to get up and get the file. All the  
25 files were on the counter for the day, and he never got

1 up and got the file. It was either for the policeman or  
2 the officer to say what the charges were or for one of  
3 us to get up and go get the file.

4 Q. And when you say he called it out from the  
5 back, where are you referring to?

6 A. At the back desk. He sat at the back desk  
7 with the three of us.

8 MS. FLAHERTY: We'll now move to  
9 Section H, Failure to Wear Judicial Robes. This is at  
10 Paragraph 244.

11 BY MS. FLAHERTY:

12 Q. Beginning in 2011 and continuing through  
13 December of 2014, did Judge Tidd routinely fail to wear  
14 his judicial robes when he conducted proceedings at the  
15 counter?

16 A. Yes.

17 Q. Did you at any time remind him to wear his  
18 robes?

19 A. In the beginning, yes.

20 Q. When you say in the beginning, could you  
21 define that?

22 A. Shortly after I was there for a few months I  
23 would remind him, and then I gave up.

24 Q. Beginning in 2011 -- this is at Paragraph  
25 245. Beginning in 2011 President Judge McFadden and

1 Northampton County court administrators received  
2 complaints that Judge Tidd failed to wear his robes and  
3 conducted proceedings at the counter. Did you complain  
4 to those -- to the president judge or to court  
5 administration about those issues?

6 A. Yes, I did.

7 Q. And were you aware that on -- this is  
8 Paragraph 246 -- that on three occasions beginning in  
9 August 2011 ending in February 2012 that Judge Tidd met  
10 with President Judge McFadden and court administrators?

11 A. Yes, I was.

12 Q. Did he share with you that those meetings  
13 involved his job performance?

14 A. Yes, he shared them.

15 Q. I believe you've previously testified that  
16 Judge Tidd told you during the February 13, 2012 meeting  
17 that President Judge McFadden told him to wear his  
18 robes. Is that correct?

19 A. Yes.

20 Q. After that February 13, 2012 meeting with the  
21 former President Judge McFadden and the court  
22 administrators and continuing through your time there  
23 December 2014, did Judge Tidd routinely fail to wear  
24 those robes while conducting proceedings at the counter?

25 A. He did not wear them, no.

1                   JUDGE BARTON: Ms. Flaherty, may I  
2 interrupt for just a moment for a question for the  
3 witness because I want to be clear on one thing. You've  
4 used the term proceedings.

5 BY JUDGE BARTON:

6           Q.       Ms. Kale, my question would be, did you ever  
7 witness when Judge Tidd was at the counter with a police  
8 officer and traffic defendant that he would swear  
9 anybody in? When we say a proceeding and summary  
10 trials, are you suggesting to me that witnesses were  
11 sworn and testimony was taken at the counter?

12           A.       No one was sworn in, sir.

13           Q.       Or was it simply that an officer said, Judge,  
14 I discussed with the defendant, I'll amend the citation,  
15 he's agreed to plead guilty?

16           A.       It wasn't always -- that wasn't always the  
17 case, no.

18           Q.       So were -- because, again, this is important.  
19 I want to be clear. When we talk about a proceeding in  
20 determining whether a trial was conducted, did you  
21 witness occasions when the policeman would testify --  
22 although if you're not sworn, I'm not sure it's  
23 testimony -- as to what happened and then the defendant  
24 would testify or state what happened?

25           A.       Yes, they would both state, but at no point

1 was anybody sworn in, no.

2 JUDGE BARTON: Thank you. I apologize  
3 for the interruption.

4 BY MS. FLAHERTY:

5 Q. And to clarify what those proceedings were at  
6 the counter, I had generalized that, and I want to be  
7 more specific. At Paragraphs 244, 245, and 248 in those  
8 paragraphs it's spelled out that Judge Tidd was at the  
9 counter conducting traffic summary trials,  
10 landlord/tenant hearings, preliminary arraignments, and  
11 waivers of preliminary hearings at the counter. Is that  
12 correct?

13 A. Yes.

14 Q. And during those times, he was not wearing  
15 his robe?

16 A. Correct.

17 MS. FLAHERTY: This is in Disregard for  
18 the Dignity of the Judicial Robes at letter I,  
19 Paragraph 249.

20 BY MS. FLAHERTY:

21 Q. Diane, did you ever witness Judge Tidd  
22 sleeping on the floor of his judicial office in his  
23 robes?

24 A. Yes, I did.

25 Q. Do you recall that that happened on

1 January 12th, 2012 with the Commonwealth versus Zheng  
2 cases?

3 A. Yes.

4 Q. Is there anything else you can remember about  
5 that incident?

6 A. Just that he was lying on the floor on his  
7 side with his coat as his pillow and wearing his robe.

8 Q. Did you ever have a conversation with him  
9 about that?

10 A. No.

11 Q. Diane, between 2011 and December 2014 did  
12 Judge Tidd ever direct you to change dispositions of  
13 cases in the magisterial district judge computer system?

14 A. Yes, he did.

15 Q. Can you describe that, please?

16 A. If there was a traffic hearing and the  
17 officer and defendant were there or if just the officer  
18 was there and defendant didn't show up, a guilty plea  
19 was entered. If the defendant came in and had the time  
20 wrong and the judge happened to still be there, he would  
21 then direct me to change it to something else as opposed  
22 to telling him to go down and take his appeal because  
23 the officer had been there and there had already been a  
24 hearing.

25 Q. And did that happen on a frequent basis?



1           A.     It happened occasionally.

2           Q.     Is changing a disposition is that the same  
3 thing as backing it out of the system?

4           A.     Yes. I would have to -- yes, I would have to  
5 back out the guilty finding and change everything, yes.

6           Q.     Were you present at the district court when  
7 the audiovisual system was installed?

8           A.     Yes, I was.

9           Q.     And do you recall how that came about?

10          A.     We were -- Judge Tidd was always looking for  
11 upgrades to the security in our office because we didn't  
12 have window -- a counter window. And when he was out at  
13 continuing ed in Harrisburg, he found someone that was  
14 head of security and told him there was money there, all  
15 the court administrator from Northampton County had to  
16 do was ask and it would be reimbursed for any security  
17 upgrades.

18          Q.     And was that Ms. French?

19          A.     Yes, that's Ms. French.

20          Q.     And so did Judge Tidd discuss that with you?

21          A.     Yes. He had the gentleman come out. There  
22 were two gentlemen that came out and looked at our  
23 office and made suggestions, and he okayed them.

24                   MS. FLAHERTY: Thank you very much. I am  
25 through with direct.

1 JUDGE BARTON: Mr. Stretton, do you have  
2 any questions for this witness?

3 MR. STRETTON: I do.

4 JUDGE BARTON: Please proceed.

5 CROSS-EXAMINATION

6 BY MR. STRETTON:

7 Q. Good afternoon, Ms. Kale. Can you hear me  
8 okay?

9 A. Yes.

10 Q. Now, you worked for five district judges  
11 before you came to work for my client, former Judge  
12 Tidd. Am I right?

13 A. Four, sir.

14 Q. And the last one you were fired for  
15 insubordination. Am I correct?

16 A. You're incorrect.

17 Q. What judge did you work for?

18 A. The last one?

19 Q. Yes.

20 A. Judge Taschner.

21 Q. You were asked to leave. It wasn't  
22 voluntary. Am I right?

23 A. She told me she was having me reassigned.

24 Q. And there was issues of you not complying  
25 with her orders and requirements?

1 A. You're incorrect.

2 Q. So you're telling me that you weren't let go  
3 for insubordination reasons?

4 A. Absolutely not.

5 Q. But you -- the judge did not want you to  
6 continue to work there?

7 A. That's correct.

8 Q. Now, you have a son who's a police officer.  
9 Am I right?

10 A. That's correct.

11 Q. What's his name?

12 A. Matthew Messinger.

13 Q. Messinger?

14 A. Yes.

15 Q. He worked at that time when you were there  
16 with Hellertown Police Department?

17 A. Part time, yes.

18 Q. And your son would often appear in the  
19 courthouse where you were working when you worked with  
20 Judge Tidd. Am I right?

21 A. Yes.

22 Q. He would have hearings there. Am I right?

23 A. Yes.

24 Q. And he was routinely late, correct?

25 A. No, that's not correct.

1 Q. If I told you I had other officers tell you  
2 that's the case, that wouldn't refresh your  
3 recollection?

4 A. No, it wouldn't.

5 Q. You used to have to cover for him.

6 A. How would I cover for him?

7 Q. Try -- he'd call you and say I'm coming late,  
8 tell the judge, things of that nature.

9 A. No, sir.

10 Q. Do you know what it means to be under oath by  
11 the way?

12 A. Absolutely.

13 Q. Do you know it means to tell the truth?

14 A. Absolutely.

15 Q. Do you know the penalties for not telling the  
16 truth?

17 A. No.

18 Q. Now, let's just make sure I understand, go  
19 back a little. You came and started working for Judge  
20 Tidd -- former Judge Tidd in 2010. Am I right?

21 A. Yes, April.

22 Q. And you remained there until December of  
23 2014?

24 A. Correct.

25 Q. You never filed a complaint with the Judicial

1 Conduct Board about Judge Tidd, did you?

2 A. No.

3 Q. You never sent any notes over to Debra French  
4 or Judge McFadden or later Judge Baratta. Am I right?

5 A. Did I send notes, no, I did not.

6 Q. So during this -- what you're telling us now  
7 you never made any complaints to anyone during that time  
8 period of 2010 to 2014?

9 A. No, that's incorrect.

10 Q. Who did you make your complaints to?

11 A. Debra French.

12 Q. In writing?

13 A. I don't recall if it was in writing. I know  
14 I talked to her on the phone.

15 Q. How often and when did you talk to her on the  
16 phone?

17 A. I talked to her four different times.

18 Q. What times?

19 A. The exact dates I am not sure of.

20 Q. Last time was in 2012?

21 A. I'm not sure.

22 Q. But you left in 2014, so you had nothing to  
23 fear after you left. Am I right?

24 A. I don't understand the question.

25 Q. You left the job in 2014 with former Judge

1 Tidd. You could have filed a complaint thereafter. You  
2 were no longer in his office, right?

3 A. We had already sent things out to the  
4 Judicial Conduct Board.

5 Q. I asked you a few minutes ago did you file  
6 complaints with the Judicial Conduct Board when you were  
7 there, and you said you did not. Are you changing that  
8 answer?

9 A. I guess I am.

10 Q. Tell me when you sent the complaint to the  
11 Judicial Conduct Board.

12 A. I believe it was in 2012.

13 Q. If I told you I have no such complaint, would  
14 that refresh your recollection?

15 A. No, sir.

16 Q. You didn't file a complaint, you just want to  
17 say something to hurt him. Am I correct?

18 A. Absolutely not, sir.

19 Q. In fact, when he was there, you and he got  
20 along pretty well. Am I right?

21 A. Sir, I needed the job and I -- what was I  
22 gonna do? I needed the job.

23 Q. He never threatened to fire you, did he?

24 A. No.

25 Q. In fact, you even asked him for money and he

1 lent you money, \$200, do you remember that, \$250, do you  
2 remember that?

3 A. Never, never, never.

4 Q. So that's another thing you don't remember?

5 A. No. It never happened.

6 Q. Never happened?

7 A. Never happened.

8 Q. Ma'am, let's just look at this courtroom  
9 setting. The courtroom itself or the office itself is  
10 rather small. Am I correct?

11 A. That's correct.

12 Q. The counter space which -- I think you were  
13 here when we saw the video. Am I right or was that --

14 A. Yes.

15 Q. You were here. Am I right?

16 A. Yes.

17 Q. That counter space that we saw is about  
18 30 feet in length. Am I right?

19 A. I have no idea.

20 Q. The courtroom is on the other side of the  
21 counter, the other side where you and your colleagues  
22 work. Am I correct?

23 A. Yes.

24 Q. And the judge's actual chambers are on your  
25 side of the counter where you and your colleagues work.

1 Am I right?

2 A. Yes.

3 Q. And for the judge to enter the courtroom he  
4 has to walk across the public space to go into the  
5 courtroom back then. Am I right?

6 A. No. He didn't walk through -- there's a  
7 separate entrance into the courtroom from the public  
8 one.

9 Q. But, I mean, to get in there he has to walk  
10 out of -- from behind the counter to go over there. Am  
11 I right?

12 A. He walks from the counter into the courtroom,  
13 yes. He doesn't go out into the public area.

14 Q. Now, in the -- there's a conference room  
15 there also. Am I right?

16 A. That's correct.

17 Q. Now, the judge's actual chambers or room  
18 where it was his office did not have a phone for a good  
19 period of time you were there. Am I right?

20 A. There was one there, but he requested to have  
21 it moved.

22 Q. There was a phone there at one point, but  
23 then it was put out into the office area because of the  
24 floaters being used in the office. Am I right?

25 A. No, you're not.



1 Q. Well, there wasn't a phone in his actual  
2 office, that is the chambers, not where you and your  
3 colleagues were working for at least three or four  
4 years. Am I right?

5 A. He moved it because he wanted it out at the  
6 desk, yes.

7 Q. There was no phone in his office?

8 A. At his request, yes.

9 Q. And he made -- if I showed you letters where  
10 he requested a phone for his office, would that refresh  
11 your recollection that he had asked the phone to be put  
12 in his actual office?

13 A. He asked for a phone to be put in the  
14 courtroom, sir.

15 Q. So when he testifies and shows letters he  
16 wrote to the court administration, you know nothing  
17 about that. Am I right?

18 A. I don't -- I wouldn't know about that, no.

19 Q. Now, were you there every day?

20 A. Unless I was on vacation.

21 Q. I mean were you full time or part time?

22 A. I was full time.

23 Q. So you were Monday through Friday?

24 A. Correct.

25 Q. And you got there what, about 8:30?

1 A. 8:30, yes.

2 Q. And then the end of the day was what, 4:30?

3 A. Yes.

4 Q. And Judge Tidd was there normally before  
5 secretaries, clerks came in, correct?

6 A. Not always, no.

7 Q. But most of the time he was there, he came  
8 early?

9 A. In the beginning, no.

10 Q. Well, during most of his tenure during '13,  
11 '14, he was there almost every day at 7:45, 8:00 at the  
12 latest?

13 A. Not always, sir, no.

14 Q. Most of the time?

15 A. No. The first couple years he used to run in  
16 right at 9:00 or 9:15 because he had his law practice.  
17 Then when that slowed down, then, yes, he was coming in  
18 at 7:30. He'd be there -- he'd tell me he got in at  
19 7:30 when I appeared at 8:30.

20 Q. So for at least the last year that you were  
21 working there he was there before you got in?

22 A. That's correct.

23 Q. And maybe it was the last two years that you  
24 were working that he was there before you got in?

25 A. Again, sir, the last year.

1 Q. Now, Judge Tidd had some physical problems  
2 during the time that he was there as a judge, he had  
3 some physical chronic illnesses. Am I right?

4 A. Yes.

5 Q. He had an intestinal disorder of some sort.  
6 Am I right?

7 A. I only know what he told me. That's what  
8 he --

9 Q. That's what he told you, correct?

10 A. That's what he told me, yes.

11 Q. And at some point there was some concern  
12 about some mass in his lungs, and he actually had some  
13 sort of exploratory surgery?

14 A. Yes.

15 Q. And you and the others in the office used to  
16 joke about him being bipolar, used to make fun about it.  
17 Am I correct?

18 A. We didn't joke about him being bipolar. We  
19 said we didn't know if he was up or down. You didn't  
20 know on any given day what his mood or what his demeanor  
21 would be.

22 Q. Well, your statement that you gave to the  
23 Judicial Conduct Board you said you used to joke that he  
24 was bipolar, you and your colleagues. Is that true?

25 A. Yes.

1           Q.     Now, you talked about him cursing all the  
2 time and using the F word and things of that nature. Am  
3 I right?

4           A.     Yes.

5           Q.     I was looking at your statement that you made  
6 on February 11th, 2015, and I don't see anything in  
7 there where you said he was using the F word or cursed  
8 at --

9                         MS. FLAHERTY:  Objection.

10                        JUDGE BARTON:  What's the basis for your  
11 objection?

12                        MS. FLAHERTY:  Mr. Stretton is working  
13 straight from the investigator's report of interview and  
14 referring to it as Diane Kale's statement.  It was an  
15 interview, and the report is a summary of the  
16 investigator's observations and interview.  And it's  
17 only if language is quoted within that report that it  
18 can be attributed to her.

19                        JUDGE BARTON:  Mr. Stretton.

20                        MR. STRETTON:  I disagree.  I asked where  
21 Mr. Brennan was.  I was going to subpoena him.  They  
22 said that I could use these reports.  Yes, they're  
23 summaries.  But I can confront witnesses.  I don't need  
24 to authenticate them from Mr. Brennan who's no longer  
25 there.  And we got that promise.

1 JUDGE BARTON: There's no disagreement,  
2 is there, as to the document is what it purports to be  
3 which is --

4 MS. FLAHERTY: Correct.

5 JUDGE BARTON: -- an investigative  
6 report? Is that correct?

7 MS. FLAHERTY: Correct.

8 JUDGE BARTON: I think he's entitled to  
9 cross-examine the witness and highlight any what he  
10 believes are inconsistencies with this witness's  
11 testimony and the investigator's report for what it's  
12 worth. Overruled. Mr. Stretton, you may proceed.

13 MR. STRETTON: Thank you. With your  
14 permission I'm going to hand to the witness what I'm  
15 marking as R-18 for identification purposes.

16 (Exhibit Number R-18 marked for  
17 identification)

18 JUDGE BARTON: Certainly.

19 BY MR. STRETTON:

20 Q. Ms. Kale, I've handed you what has been  
21 marked as R-18 for identification purposes which is an  
22 interview conducted by then Judicial Conduct Board  
23 investigator, Sean Brennan, with you on February 11th,  
24 2015 some two months after you left Judge Tidd's  
25 employment. Am I right?

1 A. Yes.

2 Q. Do you remember being involved in that  
3 interview?

4 A. Yes.

5 Q. And you've read this statement I assume in  
6 preparation for your testimony. Am I correct?

7 A. A few days ago, yes.

8 Q. And you agree there's nothing in there where  
9 you say he used curse words to you or the others or used  
10 the F word. Am I right?

11 A. I would have to look through it.

12 Q. Well, read through it then.

13 A. No, there is nothing in there about the  
14 swearing.

15 Q. So when did you come to the recollection that  
16 he had been swearing every day and using the F word and  
17 everything else? When did you finally reach that  
18 realization?

19 A. It wasn't an everyday occurrence. Just  
20 because it wasn't in the statement doesn't mean it  
21 didn't happen.

22 Q. It didn't happen hardly at all, did it?

23 A. It happened every day, sir.

24 Q. But you said it wasn't an everyday  
25 occurrence. Now it happened every day. Isn't that an

1 everyday occurrence, ma'am?

2 A. Yes.

3 Q. But it wasn't -- let me move on. Your job  
4 during your four years with him was it secretary or was  
5 it clerk?

6 A. It's the same difference.

7 Q. Well, do you have specific jobs like you  
8 filed and did the traffic cases or you did the truancy  
9 cases or you did everything?

10 A. I did everything.

11 Q. And was that with your other colleagues, too,  
12 Ms. Anthony when she was there and the other ladies?

13 A. They started out on certain tasks, and as  
14 they learned, they would assume more responsibility.

15 Q. Now, Judge Tidd sat at that desk when a  
16 floater wasn't being used, the fourth desk that we saw  
17 on the video, because he did have concerns about the  
18 security in that courthouse. Am I right -- or  
19 courtroom?

20 A. He expressed concerns, yes.

21 Q. In fact, all of you had concerns because  
22 there was no glass protection, no metal detectors,  
23 nothing. Am I right?

24 A. Right.

25 Q. And he thought it was better to sit out there

1 so he could see who was coming in and who wasn't. Am I  
2 right?

3 A. I wouldn't know. I wouldn't presume to know  
4 why he sat out there.

5 Q. Now, Judge Tidd every time there was a  
6 hearing that is where people were sworn in and evidence  
7 was taken, Judge Tidd, the litigants or police officers  
8 and defendants would move into the courtroom. Am I  
9 right?

10 A. Yes.

11 Q. So anytime whether it was landlord/tenant and  
12 they couldn't reach an agreement and there had to be a  
13 decision everyone would go in the courtroom, and  
14 testimony would be taken, right?

15 A. Yes.

16 Q. If it was a preliminary hearing and there  
17 couldn't be an agreement to waive the preliminary  
18 hearing over, then the officer and the defendant and  
19 their lawyers or lack of lawyers would go in the  
20 courtroom and have a hearing. Am I right?

21 A. Could you restate that.

22 Q. Sure. If there was a preliminary hearing  
23 scheduled and the criminal defendant decided he or she  
24 wished to have a hearing, a prima facie hearing on the  
25 evidence, then Judge Tidd would go to the courtroom, the



1 police officer would go into the courtroom, the criminal  
2 defendant would go in the courtroom, and a preliminary  
3 hearing would be conducted in the courtroom. Am I  
4 right?

5 A. Yes.

6 Q. And if it was a truancy case and it could not  
7 be resolved and the student or his parents wished a  
8 hearing, then again Judge Tidd would go in the  
9 courtroom, and the truancy officer or police officer  
10 would go in with the student charged with the truancy.  
11 Am I correct?

12 A. Yes.

13 Q. And if there was a traffic case where -- of  
14 some sort, whether it's speeding, running a red light,  
15 lack of insurance, no inspection, if the police  
16 officer -- if the criminal defendant in a summary case  
17 wished to have a hearing, no deal was worked, no charges  
18 reduced, then everyone went in the courtroom, and the  
19 judge would have a hearing. Am I right?

20 A. Not always, no.

21 Q. Well, tell me the days, the cases where there  
22 was a hearing and --

23 A. I can't give you specific dates and times.

24 Q. Every time when someone wanted a hearing  
25 where witnesses would testify and the judge would decide

1 whether he was speeding or not, it was in the courtroom,  
2 correct?

3 A. Hearings were held at the counter. They were  
4 not always in the courtroom, no.

5 Q. Give me one case where a hearing was held at  
6 the counter and the date.

7 A. There were too many. I couldn't begin to  
8 give you a list.

9 Q. Too many. That makes it easy. There's too  
10 many. Just pick one out of the many. Tell me one day.

11 A. I cannot give you a specific day.

12 Q. You've been prepared, you met with judicial  
13 counsel, you've gone over your testimony, reviewed it,  
14 and you're telling us you cannot give us one day when  
15 there was a summary trial held at the counter. Is that  
16 your testimony?

17 A. That's my testimony. It was too many.

18 MS. FLAHERTY: I would like to object for  
19 just a moment and state that during direct examination  
20 we went through many cases that were held at the counter  
21 and when given specific examples with her recollection  
22 refreshed Ms. Kale was able to testify that she was  
23 present and that occurred. You're asking a general  
24 question and asking her to fish out all of those cases  
25 and name one. And I believe that if Mr. Stretton has a

1 specific case he wants to present to her he has had all  
2 of that evidence for a number of months and he could  
3 present it and ask the specific question.

4 MR. STRETTON: My recollection is every  
5 one of those was a waiver, a reduced charge, everything  
6 else if I recall going through that.

7 JUDGE BARTON: I'll overrule the  
8 objection. He's entitled to cross-examine the witness.  
9 Mr. Stretton, you may continue, sir.

10 BY MR. STRETTON:

11 Q. So you can't tell me one time when there was  
12 full hearings --

13 A. If you want to give me my notes, I'll give  
14 you some.

15 Q. Your notes, what notes do you have beyond  
16 that statement I just handed you? Do you have notes?

17 A. The complaint you filed, the specifics.

18 Q. I don't have a complaint from you. I have an  
19 anonymous complaint filed by someone else, but I don't  
20 have anything from you. Is there any notes, anything?  
21 Do you have notes, ma'am?

22 A. The log I sent.

23 Q. The what?

24 A. The log.

25 Q. We don't -- I don't have a log from you.

1                   JUDGE BARTON: Ms. Flaherty, is it your  
2 belief the witness is referring to what we've been  
3 calling Exhibit 7?

4                   MS. FLAHERTY: Yes.

5 BY MR. STRETTON:

6           Q.       So Exhibit 7 is yours? Exhibit 7 are  
7 anonymous complaints. Am I correct? Am I correct  
8 seeing Exhibit 7?

9           A.       I don't know, sir.

10          Q.       Well, let's take a look at it. You'll tell  
11 me if you wrote these and when. And, by the way, before  
12 we go to Exhibit 7, every time Judge Tidd -- former  
13 Judge Tidd was in the courtroom he wore his robe,  
14 correct?

15          A.       I don't know if he wore it every time, no.

16          Q.       You were never in his courtroom?

17          A.       I wasn't in the courtroom. But he took his  
18 robe -- his robe was in his office. There were times he  
19 went in without his robe.

20          Q.       All right, now, let's look at Exhibit  
21 Number 7. Is that what you wrote?

22                   MS. FLAHERTY: Objection. There's been  
23 extensive testimony as to the creation of this log, how  
24 the notes were taken. Ms. Kale has already testified to  
25 how those logs came about and --

1                   JUDGE BARTON: Overruled. He's entitled  
2 to ask questions about it.

3 BY MR. STRETTON:

4           Q.       Is that what you wrote? Is that your typing?

5           A.       It's a compilation of what notes we took,  
6 yes, and it's between Brenda Anthony and myself.

7           Q.       And who typed it?

8           A.       Brenda typed it.

9           Q.       And when was it sent?

10          A.       Again, I'm not aware of the specific date.

11          Q.       Was it after you left, before you left the  
12 employ of former Judge Tidd?

13          A.       It was before I left.

14          Q.       Is that all the notes that you submitted that  
15 are in Exhibit 7?

16          A.       I have no way of knowing, sir.

17          Q.       You don't know?

18          A.       I don't know.

19          Q.       Now, when a police officer and the litigant  
20 would appear and if there was an agreement, a  
21 settlement, that would often be resolved at the counter.  
22 Am I correct?

23          A.       Yes.

24          Q.       So if I was charged with a speeding ticket  
25 and the officer came in and we reached an agreement that

1 I would plead to 5 over as opposed to 20 over, that  
2 would be done at the counter by agreement. Am I right?

3 A. In Judge Tidd's court, yes. The other judges  
4 I worked for, no, everything was done in the courtroom.

5 Q. I don't remember asking you about the other  
6 judges. But since you said that, if I tell you I'm  
7 going to produce lawyers and others who are going to say  
8 that's not the case in Northampton County, you're  
9 telling us that would shock and surprise you?

10 A. Yes.

11 Q. If I told you I've probably done 5,000,  
12 10,000 hearings throughout the state district judges and  
13 many times they're done at the counter, would that  
14 surprise you?

15 A. Yes, it would.

16 Q. Because you're the expert. What law school  
17 did you go to?

18 A. I didn't go to law school.

19 Q. What training do you have to be so  
20 judgmental?

21 A. I worked for three judges for almost 20  
22 years.

23 Q. And you were transferred by how many of those  
24 three judges?

25 A. The three I was talking about I was never

1 transferred.

2 Q. Now, let's just go and think about what's  
3 happening. Judge Tidd when there's agreements would  
4 take pleas or accept judgments and they would be entered  
5 of record, correct, at the counter?

6 A. Yes.

7 Q. And then he would hand the paperwork to you  
8 or one of your colleagues to complete. Am I right?

9 A. Yes.

10 Q. Now, when there were arraignments there,  
11 Judge Tidd would often do those at the counter unless  
12 someone asked to go in the courtroom, correct?

13 A. Yes.

14 Q. Judge Tidd, as you said, would spend three to  
15 five minutes collecting information. Am I right?

16 A. Judge Tidd didn't collect information.

17 Q. He would ask certain questions that weren't  
18 already filled out on the form?

19 A. Judge Tidd didn't use a form.

20 Q. The forms were completed to some extent in  
21 advance by the court system, correct, address, things --  
22 basic stuff by a criminal defendant?

23 A. No, sir.

24 Q. And Judge Tidd would get the basic  
25 information and then hand the paperwork to be completed

1 to his staff. Am I right?

2 A. No, sir.

3 Q. But didn't you say that he would spend three  
4 to five minutes at least interviewing someone?

5 A. That was telecom arraignments he spent three  
6 to five minutes, not when the people were in the foyer  
7 at the district court.

8 Q. He would spend the same time. You don't  
9 know, do you? Tell me which ones he spent less than  
10 three to five minutes.

11 A. Again, the four years I was there you want me  
12 to name names and dates?

13 Q. Well, I assume you were keeping a book on  
14 him. Just give me your list. Give me your list when he  
15 would spend less than three to five minutes on an  
16 arraignment. Do you have such a list?

17 A. The only thing I have is the log, sir.

18 Q. Now, at nighttime arraignments you were never  
19 there, were you?

20 A. No.

21 Q. So you don't know what he did at nighttime?

22 A. No.

23 Q. But you did testify about one time you had a  
24 video arraignment. Was that nighttime, or was that  
25 daytime?



1 A. They occurred during the day, also.

2 Q. And the video wasn't working. Am I correct?

3 A. There were occasions it did not work, yes.

4 Q. And so one of those occasions he used a  
5 telephone to conduct the arraignments. Am I correct?

6 A. I don't know if that was the occasion where  
7 the videoconf didn't work or not. That's what he said.

8 Q. That's what he told you, it wasn't working so  
9 he used the telephone. Am I right?

10 A. Yes.

11 Q. And you thought that was so horrible you  
12 reported that, correct?

13 A. Yes.

14 Q. Why didn't you sit down and talk to him in  
15 2014 or '13 and say, Judge, we're concerned? Why didn't  
16 you sit down and have those kind of conversations with  
17 him?

18 A. We did. We did try to --

19 Q. When?

20 A. -- talk with him.

21 Q. You show me in your notes when you sat down  
22 and talked to him. Exhibit 7 show me where you sat down  
23 and talked to him.

24 A. We didn't write that down. I --

25 Q. You didn't write it down?

1           A.     No.

2           Q.     So there's no notes when you -- well, tell  
3 me -- can you give me a rough estimate when you sat down  
4 and talked to him?

5           A.     When I went there in April of 2010 and saw  
6 how he conducted things, I tried to make suggestions  
7 with the form with filling -- for an arraignment there  
8 was a form with name, address, pertinent information,  
9 and we asked him to use that form, and he said, no, he  
10 couldn't be bothered.

11          Q.     Other than that, so he wanted to use his own  
12 form, do it differently, tell me when you sat down and  
13 talked to him about all these concerns that you were  
14 sending over to Ms. French regularly and which you --  
15 and Ms. Anthony filed.

16          A.     Early on -- we didn't report him early on.  
17 We tried to work with him, tried to let him know that  
18 this is how we did it other places, it would be  
19 helpful -- he didn't even get a change of address or a  
20 phone number. And we said, you know, could you please  
21 fill this out so we have -- if mail comes back we know  
22 we have the correct address or we have a phone number.  
23 He couldn't be bothered doing any of that.

24          Q.     Go beyond that. How about all these other  
25 complaints you testified over a day to this court, did

1 you ever sit down with him on those other issues and  
2 talk to him?

3 A. Yes, sir, we did.

4 Q. Now, when you work for someone, you usually  
5 have a sense of loyalty and duty for that person. Am I  
6 right?

7 A. Yes.

8 Q. And in this case you and apparently the  
9 others were communicating regularly with Ms. French, not  
10 with judge -- former Judge Tidd, were you?

11 A. That's incorrect. We went to Debbie three  
12 times, and after the third time, she said she couldn't  
13 do anything for us.

14 Q. But you kept sending things over, correct?

15 A. No.

16 Q. Ms. LeVan said she sent them over, is that a  
17 surprise to you, every week she said from the end of  
18 2011 onward? Did you --

19 A. I remember Ms. LeVan starting to take notes.  
20 I don't remember her sending them to Debra French.

21 Q. So you weren't aware that she was sending  
22 things on a regular basis?

23 A. No.

24 Q. But you and Ms. Anthony started to send  
25 things on a regular basis at some point?

1 A. No, we did not. No, we did not.

2 Q. When did you --

3 A. We just took notes. We took notes until she  
4 decided -- we decided to forward them to the Judicial  
5 Conduct Board.

6 Q. And when did you send that Exhibit 7 to the  
7 Judicial Conduct Board?

8 A. Brenda sent it. I'm not sure the exact date.

9 Q. And you were gone at that point? You left by  
10 the time that was sent. Is that my understanding?

11 A. I don't believe so.

12 Q. Now, you mentioned the other day or yesterday  
13 I guess about someone coming in with a charge for not  
14 having an updated inspection on their motor vehicle. Do  
15 you remember that?

16 A. Yes.

17 Q. And you remember and you mentioned something  
18 about Judge Tidd saying you don't even have one now, you  
19 haven't gotten it updated. Am I right?

20 A. Yes.

21 Q. Because Judge Tidd could see the car and saw  
22 it didn't have an updated sticker, it still was a dated  
23 sticker. Am I correct?

24 A. Yes.

25 Q. So Judge Tidd said, you know, you didn't have

1 it when you were stopped, you still don't have it now,  
2 you should plead guilty, right? Is that what he said?

3 A. That's what he said.

4 Q. And the man ultimately did plead guilty. Am  
5 I correct?

6 A. Yes.

7 Q. Now, you and Ms. Flaherty this morning and I  
8 guess yesterday afternoon went through a lot of these  
9 cases where you said Judge Tidd would offer a deal and  
10 an individual would take it at the counter. Do you  
11 remember those we went through ad nauseam quite a number  
12 of them?

13 A. Yes.

14 Q. On every one of those Judge Tidd spoke to the  
15 police officer?

16 A. That's incorrect.

17 Q. Well, you don't know, do you?

18 A. I was there for most of them. He didn't  
19 routinely call and get permission. Once in a while he  
20 did but not every time.

21 Q. How do you know? Maybe he did it when you  
22 weren't looking. Did you ever think of that? Maybe he  
23 did it when he was sitting at his desk.

24 A. No.

25 Q. Did you ever ask him, Judge, did you get the

1 officer's permission?

2 A. He's the judge. I -- this is why we reported  
3 him. He didn't wait for a hearing. He didn't wait for  
4 the officer.

5 Q. Well, the officers weren't on time, and he  
6 could have just found the person not guilty, go in the  
7 courtroom, no one's here, no evidence presented, not  
8 guilty, could have done that, right?

9 A. No. This was mostly on people who were  
10 early. This is mostly on people who were 10 or 15  
11 minutes early.

12 Q. Tell me who was 10 or 15 minutes early.

13 A. Again, I can't -- I can't give dates, times,  
14 and names.

15 Q. Well, you're here saying some pretty serious  
16 things about former Judge Tidd, and you're telling me  
17 you can't give me dates and times and names, yet --

18 A. Again, I refer to the log, sir.

19 Q. You refer to your logs. Did you look at them  
20 before you testified?

21 A. Yes.

22 Q. And you would agree Judge Tidd handled  
23 thousands and thousands of cases during the four years  
24 that you were working for him. Am I right?

25 A. Yes.

1 Q. And you would agree that at least even though  
2 matters you've complained about they're only a handful,  
3 20, 30 out of maybe 20,000 complaints or cases, correct?

4 A. No. It was more than 20 or 30.

5 Q. Well, we went through them. I'm not going to  
6 torment you or me or the Court by going through all  
7 those again. We can count them up later. But there was  
8 only a handful, though, compared to the 20 or 30  
9 thousand cases that went through his courtroom each  
10 year, correct?

11 A. I disagree.

12 Q. Well, tell me then, you tell me all those  
13 cases. Since you're here making serious accusations,  
14 I'm entitled to know specifics. Tell me which cases he  
15 decided a case or worked a deal when the officer wasn't  
16 there or dismissed a case. You tell me when the  
17 person --

18 A. Again, it's in the log.

19 Q. In the log. Let's look at Exhibit 7 and the  
20 first actual note page is -- this is an example of Judge  
21 Tidd handling prior to the officer arriving for the  
22 hearing that was scheduled for 9:30. Defendant accepted  
23 the officer's offer of a reduced charge I think for  
24 traffic obedience issues.

25 JUDGE BARTON: Which page on Exhibit 7

1 are you reading from, Mr. Stretton?

2 MR. STRETTON: Number 1, Your Honor.

3 BY MR. STRETTON:

4 Q. The defendant paid in full and left. Do you  
5 see that?

6 A. Yes.

7 Q. Then was this the case that is attached,  
8 Commonwealth versus, I can read the handwriting, Anthony  
9 Fiorino, F-i-o-r-i-n-o? Is that the case?

10 A. Yes.

11 Q. Then you said the officer arrived and said I  
12 really wanted the case dismissed?

13 A. Yes.

14 Q. And what day -- this was November of 2011.  
15 Is that the date this occurred?

16 A. Yes.

17 Q. And then Judge Tidd based on the officer's  
18 statement changed the disposition to dismissal per the  
19 officer's agreement. Am I right?

20 A. Correct.

21 Q. And then notified the defendant?

22 A. We notified him by issuing a refund, yes.

23 Q. That's one. Let's go to Page 10, the next  
24 written set of notes. Nothing on Page 10 about people  
25 showing up late or early, is there? Nothing on Page 11,



1 is there? Nothing on Page 12? When I talk about people  
2 showing up either early or late, the defendant or the  
3 police officer. Nothing on Page 12, is there?

4 A. I'd have to read it, sir.

5 Q. Well, I'm just looking at it. You can scan  
6 it with me. Nothing on Page 13 or 14 or 15?

7 MS. FLAHERTY: Objection. Mr. Stretton  
8 has asked the witness to look at pages, and then he's  
9 moving on to other pages. There were instances pled  
10 within the complaint of these issues that Mr. Stretton  
11 has asked about. The witness has prepared -- those  
12 averments are from the log. Mr. Stretton had time to  
13 look at those and to challenge those if he should like,  
14 but to ask us to take the time now to review all of  
15 these and to ask her to review it and take time to  
16 discern them I think is beyond the scope of why we're  
17 here.

18 JUDGE BARTON: Overruled. This witness  
19 has testified for nearly a full day, and we're briefly  
20 into cross-examination. I think he's entitled to go  
21 into detail if he chooses to do so. You can continue,  
22 Mr. Stretton.

23 BY MR. STRETTON:

24 Q. Your notes there in Exhibit 7 have one or two  
25 where a person showed up early, deal made, officer not

1 there. Am I right? Not many, is there?

2 A. I would have to go through and count, sir. I  
3 don't know.

4 Q. Now, Jim Burke's an attorney who appears  
5 regularly in many of the district courts up there. Am I  
6 correct?

7 A. Yes.

8 Q. He has a fairly active criminal law practice  
9 in Northampton and Lehigh Counties. Is that a fair  
10 statement?

11 A. I wouldn't know about Lehigh County, no.

12 Q. But you're seeing him in your courthouse?

13 A. Yes.

14 Q. When I say your courthouse, former Judge  
15 Tidd's courthouse when you worked for him. Am I right?

16 A. Yes.

17 Q. And in the complaint they listed six  
18 citations, if I recall, in those sections. Do you  
19 remember that?

20 A. Yes.

21 Q. They were the only parking citations you were  
22 aware of that Mr. Burke had?

23 A. Yes.

24 Q. And on those citations is it my understanding  
25 you're upset because the judge would ask you or one of

1 your colleagues to call Mr. Burke if a warrant was being  
2 issued to see if he wanted to come in and pay? Am I  
3 right?

4 A. Yes.

5 Q. And if he didn't pay, then the warrant was  
6 issued. Am I right?

7 A. Yes.

8 Q. In fact, there were I believe at least two  
9 occasions where Mr. Burke for whatever reason, too busy  
10 or couldn't be reached, didn't come in and a warrant was  
11 issued for his arrest. Am I right?

12 A. Yes.

13 Q. Now, you and others over the years asked  
14 Judge Tidd and actually made calls to other people who  
15 people knew who had warrants or hadn't paid to tell them  
16 to come in and pay before the warrant is issued. Am I  
17 right?

18 A. No.

19 Q. So you can't think of anyone else?

20 A. I didn't have time to call people who were  
21 ready to have issues -- warrants issued and tell them to  
22 come in, no.

23 Q. So you don't remember you or any of your  
24 colleagues doing that during your tenure there?

25 A. No.

1           Q.       But in this particular case Judge Tidd wasn't  
2 asking anything improper, he was just asking Mr. Burke  
3 either come in or face the music of a warrant. Am I  
4 correct?

5           A.       Yes.

6           Q.       And Mr. Burke came in and either paid or he  
7 had a warrant issued. Am I right?

8           A.       No.

9           Q.       Well, you said when I asked you two minutes  
10 ago that at least two times warrants were issued for  
11 Mr. Burke.

12          A.       Warrants were issued, but at that time Judge  
13 Tidd -- when I issued warrants, I issued warrants. I  
14 didn't look at names. And two warrants got issued for  
15 Attorney Burke, and he came in with them. And Judge  
16 Tidd said from now on if there were any warrants to be  
17 issued he wanted to know about it for Attorney Burke, he  
18 wanted to know.

19          Q.       But there were no other warrants issued for  
20 him because he only had six cases, right?

21          A.       Because I was instructed to let the judge  
22 know before a warrant was printed.

23          Q.       And you called Mr. Burke, and Mr. Burke would  
24 pay. Am I right?

25          A.       Not always.

1 Q. Now, this constable fee, if a warrant was  
2 issued, there is a constable fee. Am I correct?

3 A. Correct.

4 Q. And the judge has it in his or her discretion  
5 a right to waive that constable fee. Am I right?

6 A. Not in my opinion, no.

7 Q. I'm not asking your opinion. I'm just asking  
8 that's a practice, you've seen judges do that in the  
9 past?

10 A. No. Either the defendant pays for it or it's  
11 turned over to the county. They're entitled to be paid  
12 for effectuating a warrant.

13 Q. In any event, what cases were the constable  
14 fees waived? Which ones?

15 A. I'm not sure which ones.

16 Q. How much was the constable fee?

17 A. Constable fee is --

18 Q. Fifteen bucks?

19 A. -- 27.50 plus 5 plus \$17.

20 Q. And which cases were those?

21 A. I'm not sure, sir.

22 Q. Well, can't you tell me when it actually  
23 occurred? I need to see a case where he waived it other  
24 than you saying he did it.

25 A. Again, I would refer to the log.

1 Q. Is it in the log? You typed it. Is it in  
2 there? Or you and your colleague, Ms. Anthony, typed  
3 it. Is it in there?

4 A. I'm not sure, should be.

5 Q. But, in any event, the constables were always  
6 paid?

7 A. No, they weren't.

8 Q. I thought you said on direct that the county  
9 would pay them.

10 A. There was a time when he said to just have  
11 the constable eat it.

12 Q. There was a time when he said have the  
13 constable eat it?

14 A. Yes.

15 Q. Now, this robe, did you actually see Judge  
16 Tidd lying on his inner office floor sleeping on his  
17 robe?

18 A. Yes, with his head on his jacket.

19 Q. You knew he wasn't feeling well that day. Am  
20 I right?

21 A. He didn't convey that, no.

22 Q. You knew he had a cloudy physical condition.  
23 Am I correct?

24 A. I don't know if that was his issue that day  
25 or not.

1 Q. In any event, he closed the door and was in  
2 his private office. Am I right?

3 A. Yes.

4 Q. He wasn't doing this in the hallway in front  
5 of the people and behind his desk where you and your  
6 friends had a desk. Am I right?

7 A. He would sit at the desk with his head in his  
8 hands sometimes, yes.

9 Q. But when he was sleeping in his robe, that  
10 was private, door closed. Am I correct?

11 A. Correct.

12 Q. And you walked in there for whatever reason.  
13 Am I right?

14 A. Yes.

15 Q. Don't you think a judge is entitled to some  
16 privacy?

17 A. There was either a phone call or to notify  
18 him that there was a hearing ready to go.

19 Q. I have no problem with you walking --  
20 knocking on his door and walking in. But when you saw  
21 that, saw a man sleeping, don't you think that's a  
22 private thing, not something you have to go out and  
23 report?

24 A. It's a private thing -- if it's a private  
25 thing and you're sick, go home.

1 Q. No damage to the robe. The robe wasn't dirty  
2 or anything, was it?

3 A. I don't know. I didn't look at the robe, see  
4 if it was dirty.

5 Q. But you thought you had to report that. Am I  
6 correct?

7 A. Yes.

8 Q. Did you say anything to him when he woke up,  
9 Judge, you shouldn't be sleeping in your robe, it  
10 doesn't look good? Did you ever say anything to him  
11 about that?

12 A. It would fall on deaf ears.

13 Q. Did you say something? I don't care what you  
14 think it would have fallen on. Did you say something to  
15 him?

16 A. I don't recall.

17 Q. Now, the secretary Cassie, what's her last  
18 name?

19 A. Bettler.

20 Q. What?

21 A. Bettler.

22 Q. You and Ms. Anthony did not like her and  
23 asked Judge Tidd to get rid of her several times. Am I  
24 right?

25 A. No.



1 Q. You never did that?

2 A. Judge Tidd took a dislike to her and didn't  
3 want her there.

4 Q. Well, you and Ms. Anthony told her that both  
5 of you wanted her out because you didn't think she was  
6 pulling her weight, correct?

7 A. That's incorrect. I told Cassie I didn't  
8 think this job was for her, and I suggested -- strongly  
9 suggested she look for another job.

10 Q. And you told her you didn't think the job was  
11 for her because she wasn't able to get the work done  
12 timely, right?

13 A. No. She was slow at learning, but it  
14 frustrated Judge Tidd. He wanted her to know all  
15 aspects of the job quickly.

16 Q. In other words, slow at learning or not, she  
17 wasn't producing as fast as, for instance, you were or  
18 Ms. Anthony was. Am I correct?

19 A. Again, there's no time frame for a new  
20 person. Our job is very difficult. There are many  
21 aspects of it. It takes each person a different amount  
22 of time to become good at their job.

23 Q. I understand that. I'm not -- we're not in  
24 any way saying everyone has to be brilliant. People are  
25 good and they work hard and they do their job. But you

1 also recognize that she wasn't really fulfilling her  
2 responsibilities when you said to her you ought to look  
3 for a different type of work, right?

4 A. Yes.

5 Q. And you expressed that also to Judge Tidd  
6 either directly or indirectly. Am I right?

7 A. We discussed it with Judge Tidd, yes.

8 Q. And he had the impression at least that you  
9 two, that is you and Ms. Anthony, thought that she  
10 wasn't as good as she could be for whatever reason and  
11 that perhaps she ought to be replaced. Am I right?

12 A. That was Judge Tidd's decision.

13 Q. Ms. Anthony and Judge Tidd at one point were  
14 pretty good friends in the office. Am I right?

15 A. I don't know what you mean by good friends.  
16 He's our boss.

17 Q. Well, she asked him if she could borrow \$750?

18 A. I have no knowledge of that. I wasn't in on  
19 that.

20 Q. We'll show her the check when she gets here,  
21 but you don't have any knowledge of that?

22 A. No, I did not.

23 Q. But Judge Tidd, let's just be candid, in that  
24 office you're there four years, he's there, Anthony's  
25 there. There's a lot of give and take between all of

1 you. Am I correct?

2 A. I don't know what you mean by give and take.

3 Q. Office gossip. I have four secretaries who  
4 work for me. We're friends. We talk. I complain  
5 sometimes. Sometimes I'm upset with a client. I'll  
6 tell my secretaries this client --

7 MS. FLAHERTY: Objection, relevance.

8 BY MR. STRETTON:

9 Q. My question is --

10 JUDGE BARTON: If there's a question in  
11 there, let's get to it.

12 BY MR. STRETTON:

13 Q. The question is, that's occurred in your  
14 office, the judge would talk to all of you because he  
15 believed you were his staff, he could let his hair down  
16 so to speak. Am I right?

17 A. Occasionally, yes.

18 Q. And you and Ms. Anthony and others would talk  
19 with him. Am I right?

20 A. Yes.

21 Q. Sometimes people tell jokes, sometimes he  
22 would express his frustration. Am I correct?

23 A. Yes.

24 Q. Like the time when Attorney Andres came in  
25 and asked about I want a hearing. Remember Ms. Flaherty

1 asked you about that yesterday, remember that?

2 A. Yes.

3 Q. And you had mentioned Judge Tidd after it was  
4 done or right before the hearing Judge Tidd then said to  
5 Mr. Andres, did you have to I think F up my day by  
6 having this hearing?

7 A. Yes.

8 Q. You heard him say that, right?

9 A. Yes.

10 Q. That was just the two were just joking among  
11 friends.

12 A. And that's okay if that's all that was there,  
13 but there were other people in the foyer. I felt it was  
14 inappropriate.

15 Q. But you knew it when he was talking to Andres  
16 it wasn't like he was yelling at him like this f'ing my  
17 day. You knew he was teasing him.

18 A. I knew that. But, again, there are people,  
19 public people there that don't know that they're  
20 friends.

21 Q. So after Mr. Andres had left and the other  
22 people had their business is gone, did you ever go over  
23 to Judge Tidd and say, look, I understand you tease  
24 Mr. Andres but maybe you shouldn't use the F word  
25 because Joe Blow criminal defendant or summary defendant

1 or landlord was sitting there? Am I right?

2 A. No, I didn't. Why would I have to tell him  
3 how to talk or how to act?

4 Q. Now, you mentioned something about the  
5 landlord of the office, Miss Bartz, was it -- Blair,  
6 Miss Blair? Am I right?

7 A. Yes.

8 Q. And you thought that the judge should have  
9 disqualified himself. Am I correct?

10 A. Correct.

11 Q. And he didn't do that?

12 A. No.

13 Q. But the judge wasn't on the lease, was he?  
14 It was the county that was on the lease. Am I right?

15 A. Yes.

16 Q. I'll just jump back to your son, Officer  
17 Messinger. Am I saying his name right?

18 A. Yes.

19 Q. He would call you periodically, am I right,  
20 about how to handle this, how to do that?

21 A. No.

22 Q. Never?

23 A. No.

24 Q. Now, you had -- one of the complaints Judge  
25 Tidd used to make to you was you were constantly on the

1 phone with another judge. Am I right?

2 A. I have no knowledge of that, no.

3 Q. Judge Litzenberger, your friend, correct?

4 A. No, I wasn't constantly on the phone with --

5 Q. You worked with Judge Litzenberger?

6 A. Yes, I did.

7 Q. And Judge Tidd would -- you would call him  
8 about, well, Judge Tidd is doing it this way and get his  
9 thoughts, and then you would pass it on to Judge Tidd.

10 Am I right?

11 A. No.

12 Q. Never did that?

13 A. Judge Tidd would ask me how Judge  
14 Litzenberger used to do things, and I would tell him.

15 Q. Judge Tidd used to complain to you, you  
16 shouldn't talk so much to Judge Litzenberger during the  
17 day?

18 A. Absolutely not.

19 Q. You don't remember that at all?

20 A. No.

21 Q. But you were in a relationship with Judge  
22 Litzenberger during that time period. Am I right?

23 A. What do you mean by relationship?

24 Q. You had dated him or dating him or seeing  
25 him?

1 A. Absolutely not.

2 Q. You're telling me that's not true?

3 A. Not true at all.

4 Q. You were a good friend of his, that's for  
5 sure. Am I right?

6 A. He was my former boss, and he moved to  
7 Florida, and I took care of the house for him.

8 Q. But you talked to him regularly?

9 A. No, I did not talk to him regularly.

10 MR. STRETTON: Thank you.

11 JUDGE BARTON: Thank you, Mr. Stretton.

12 MS. FLAHERTY: Just a couple of  
13 questions.

14 REDIRECT EXAMINATION

15 BY MS. FLAHERTY:

16 Q. Ms. Kale, Mr. Stretton asked you a lot of  
17 questions about filing complaints and about -- do you  
18 need a break?

19 A. No.

20 Q. Are you sure?

21 A. (Witness nods head.)

22 MS. FLAHERTY: I'd like to give her a few  
23 minutes, please.

24 JUDGE BARTON: Why don't we take not  
25 quite 10 minutes.

1 (Recess taken)

2 JUDGE BARTON: Ms. Flaherty, are you  
3 ready?

4 MS. FLAHERTY: Yes. Thank you. And  
5 before I begin my redirect, I just want to clarify for  
6 the record that the logs are listed as Exhibit 7, and  
7 then at Exhibit 8, 9, and 10 are copies of information  
8 sent, as Lisa LeVan testified to yesterday, copies of  
9 notes that were sent to Debra French from the period  
10 January 20th, 2012 to February 17th, 2012, and there  
11 will be further testimony about that tomorrow from  
12 Ms. French.

13 JUDGE BARTON: Very good. Thank you.

14 BY MS. FLAHERTY:

15 Q. Ms. Kale, I'm going to ask the Court if I may  
16 approach you with Respondent's Exhibit 18 which was your  
17 February 11, 2015 report of interview. You were  
18 previously asked if you recalled whether you told  
19 Mr. Brennan that Judge Tidd would curse at you, and you  
20 reviewed it briefly, and I'd like to show you it again.

21 A. Okay.

22 MS. FLAHERTY: I'm showing the witness --  
23 may I approach?

24 JUDGE BARTON: You may.

25 MS. FLAHERTY: I'm showing the witness



1 Page 3, Paragraph 3 midway down that paragraph.

2 THE WITNESS: Yes. It says, Tidd would  
3 curse and complain when he had to do hearings.

4 BY MS. FLAHERTY:

5 Q. Thank you. And did you have an opportunity  
6 to review your -- the transcript of your deposition  
7 which took place on April 19th, 2016?

8 A. Yes.

9 Q. And do you recall if we discussed on the  
10 record whether or not Judge Tidd had cursed at you?

11 A. We did, yes.

12 Q. And I'd like to give you an opportunity to  
13 review that at this time.

14 MS. FLAHERTY: Or if the Court would  
15 like, I can read it into the record and ask if she  
16 verifies that information, whichever way you'd prefer.

17 JUDGE BARTON: You're looking at a prior  
18 consistent statement?

19 MS. FLAHERTY: Yes.

20 JUDGE BARTON: It's not inconsistent.  
21 It's consistent.

22 MS. FLAHERTY: It's consistent with her  
23 statement just now that Judge Tidd would curse at her.  
24 It's being shown to show that she has testified to this  
25 previously. Mr. Stretton raised whether or not she had

1 testified to it previously.

2 JUDGE BARTON: Okay, it's fine.

3 MS. FLAHERTY: Fine to go ahead and read  
4 it into the record?

5 JUDGE BARTON: Sure.

6 BY MS. FLAHERTY:

7 Q. This is on Page 9 of the deposition. The  
8 question posed to you, Ms. Kale, was, you referred just  
9 a moment ago that Judge Tidd would have, quote, temper  
10 tantrums, unquote. Would you describe what you mean by  
11 that phrase?

12 Answer, he would jump up and start shouting  
13 and cursing in front of police officers, in front of  
14 staff, in front of people waiting in the foyer area. It  
15 didn't matter who was there. It was -- he carried on  
16 for all to see.

17 Question at Line 11, did he direct any of the  
18 shouting and cursing at you personally?

19 Answer, many times.

20 Do you recall making that testimony during  
21 the deposition?

22 A. Yes, I do.

23 Q. At Page 72, Line 24 the question is posed,  
24 okay, in your report of interview you stated that you've  
25 never worked for a more unethical man.

1 Answer, that's correct.

2 MR. STRETTON: Objection. That's not  
3 covered in the cross. I specifically stayed away from  
4 any comments like that. It's not admissible, and I move  
5 for a mistrial.

6 JUDGE BARTON: Mistrial is denied. To  
7 the extent that's an objection, it's sustained.

8 BY MS. FLAHERTY:

9 Q. Do you care to expand on that?

10 MR. STRETTON: Objection.

11 MS. FLAHERTY: That's the next question.  
12 It doesn't use the term that he's objected to. The  
13 paragraph --

14 JUDGE BARTON: Is that the answer to the  
15 question that he objected to?

16 MS. FLAHERTY: No.

17 JUDGE BARTON: Why don't we ask counsel  
18 to step forward with the document.

19 (Discussion held off the record at  
20 sidebar)

21 BY MS. FLAHERTY:

22 Q. The question in the transcript on Page 72,  
23 Line 3, do you care to expand on that?

24 Answer, let me just tell you that I started  
25 there in 2010. I didn't know if I could stay there. It

1 was like culture shock. He just did nothing by the  
2 book, nothing. There wasn't one thing I could say he  
3 did correctly. And I struggled with that, but I needed  
4 the job, and I needed my paycheck. He treats people --  
5 like I say, he went off on me early. And, again, I'm  
6 older than he is, and you don't talk to your employees  
7 the way he did, curse, scream, shout. And he made me  
8 very uncomfortable. So when I say I had a hard time, I  
9 did. Do you recall that testimony, Ms. Kale?

10 A. Yes.

11 Q. And, finally, Ms. Kale, there were a number  
12 of questions going back and forth all in a row to you  
13 about -- on cross-examination about filing complaints  
14 with court administration, filing complaints with the  
15 Board, complaining over the phone, keeping of the logs.  
16 There were a lot of questions in a row, and I wanted to  
17 pose to you, you had corrected one of your answers to  
18 say that you finally did participate with Brenda Anthony  
19 in filing a Board complaint. Is that correct?

20 A. Yes, it is.

21 MS. FLAHERTY: And I'd like to approach  
22 the witness with one of the Board's exhibits, Board  
23 Exhibit 1, to refresh her recollection, if I may.

24 JUDGE BARTON: Certainly.

25 BY MS. FLAHERTY:

1 Q. Ms. Kale, you've now had an opportunity to  
2 review the first couple of pages in Board Exhibit 1, and  
3 can you tell the Court when that confidential report of  
4 investigation was filed?

5 A. August of 2014.

6 Q. And that's the date that the Board received  
7 it?

8 A. Yes.

9 Q. And then did you look at the second page with  
10 the typewritten issues that were complained about?

11 A. Yes.

12 Q. And was that complaint filed under your name  
13 or anonymously?

14 A. Anonymously.

15 Q. And do you know in the court today that it  
16 was you and Brenda Anthony who filed this complaint?

17 A. Yes, I do.

18 Q. And why was it that you filed it anonymously?

19 MR. STRETTON: Objection.

20 JUDGE BARTON: Do you have a response?

21 MS. FLAHERTY: Yes. She's addressed this  
22 issue previously, and now that she's seen this  
23 particular item and she's admitting that she submitted  
24 it to the Board, she hasn't -- she should have an  
25 opportunity to say why she didn't sign it.

1 JUDGE BARTON: Overruled.

2 THE WITNESS: Because we weren't sure  
3 where it was going to lead and we needed our jobs.

4 MS. FLAHERTY: Thank you.

5 JUDGE BARTON: Is that it?

6 MS. FLAHERTY: Yes.

7 JUDGE BARTON: Ms. Kale, I have a couple  
8 questions I have for you. I want to follow up to make  
9 sure I understand your testimony.

10 BY JUDGE BARTON:

11 Q. We covered Paragraph 138 of the Board's  
12 complaint which dealt with a list of cases on  
13 December 1st, 2011 that were, quote, handled, unquote,  
14 at the instruction of then Judge Tidd I think perhaps  
15 from the day before. And this places in context. My  
16 recollection is he was undergoing some medical  
17 procedures at that time and that he had telephoned and  
18 said, look, handle whatever there is tomorrow. And on  
19 the list there are several traffic cases. I see one  
20 criminal case. And I see three civil cases. I guess my  
21 first question would be, is that the only occasion that  
22 you were asked to, quote, handle, unquote, cases in  
23 Judge Tidd's absence?

24 A. No, sir.

25 Q. So there were other days?

1           A.     Yes.

2           Q.     Can you estimate for me how frequently that  
3 would have been?

4           A.     Probably every other month.

5           Q.     And so again referring specifically to the  
6 cases on December 1st, 2011, what types of handling, if  
7 you will, would the staff do on such an occasion?

8                   MR. STRETTON: I hate to object to a  
9 judge, but we don't know what cases.

10                   JUDGE BARTON: Pardon me?

11                   MR. STRETTON: We're not on any notice of  
12 any other times than this. If they want to give me  
13 other examples, other days when he was, I'm out so you  
14 guys be the judge for the day.

15                   JUDGE BARTON: My question is  
16 specifically to Paragraph 138 that has a list of  
17 questions. As to her response that it occurred on other  
18 occasions, I think she's testified consistently with  
19 that previously, so I'm going to overrule that objection  
20 and let the witness answer the question.

21                   THE WITNESS: In the case of traffic  
22 cases if the officer was there and the defendant was  
23 there and they came to an agreement or he just pled  
24 guilty, we would handle that.

25           BY JUDGE BARTON:

1 Q. And what would happen then if there wasn't an  
2 agreement?

3 A. There wasn't an agreement, we would continue  
4 the hearing.

5 Q. But if there was an agreement, would it be  
6 for a substituted charge or compromised charge or the  
7 original allegations on the citation?

8 A. Most usually it was a negotiated plea to a  
9 different charge.

10 Q. To a lesser offense?

11 A. Yes.

12 Q. Now, there's one criminal case listed in  
13 Paragraph 138, Commonwealth versus Lance, Junior at  
14 CR 440 of 2011, and under the disposition the Board  
15 complaint shows bail set. And I think we may have  
16 talked about this yesterday. On that day, I want to be  
17 clear, Judge Tidd was not in the building. Is that  
18 right?

19 A. Correct.

20 Q. And would that case have appeared for the  
21 preliminary hearing or for preliminary arraignment?

22 A. I believe it was a preliminary hearing.

23 Q. And does that notation suggest to you that  
24 perhaps the preliminary hearing was waived to court?

25 A. Yes.



1 Q. And so the judge was not in the building when  
2 bail was set and when the defendant signed the bail  
3 bond?

4 A. That's correct.

5 Q. Now, looking at some other cases on the list  
6 that appears on Paragraph 138, there looks like three  
7 traffic cases that show the disposition of dismissed.  
8 Does that suggest to you what would have happened with  
9 those cases?

10 A. Yes, sir. Most likely the officer did not  
11 appear so they were dismissed.

12 Q. And then civil cases, there are three civil  
13 cases listed in Paragraph 138. One says judgment  
14 plaintiff. One says judgment plaintiff. One says  
15 judgment defend, I suppose short for defendant. What  
16 does that suggest to you would have occurred on that  
17 day?

18 A. That suggests that they were not defending  
19 civils and if no one showed up judgment was entered by  
20 default for the plaintiff. And on the third one it  
21 would be the defendant showed up but not the plaintiff  
22 so judgment was entered for the defendant.

23 JUDGE BARTON: Any questions based upon  
24 questions from the Bench first, Ms. Flaherty?

25 MS. FLAHERTY: Just that we did have an

1 opportunity to pull the docket on that Commonwealth  
2 versus Lance which is the criminal case you referred to  
3 with bail setting, and that's at Board Exhibit 62.

4 JUDGE BARTON: Do you want to examine the  
5 witness on that?

6 MS. FLAHERTY: Pardon me?

7 JUDGE BARTON: Do you want to examine the  
8 witness on that exhibit?

9 MS. FLAHERTY: Well, I could show it to  
10 her to refresh her recollection so she could accurately  
11 answer your question whether it was a preliminary  
12 arraignment or preliminary hearing that was waived on  
13 that day.

14 JUDGE BARTON: Please proceed.

15 MS. FLAHERTY: I may approach, I assume.

16 JUDGE BARTON: You may. Which exhibit  
17 number is that again, Ms. Flaherty?

18 MS. FLAHERTY: Exhibit 62.

19 JUDGE BARTON: Thank you.

20 BY MS. FLAHERTY:

21 Q. Ms. Kale, now that you've had an opportunity  
22 to review the docket in Commonwealth versus Lance, do  
23 you recollect on December 1st what type of proceeding it  
24 was?

25 A. It was a preliminary hearing, and it was

1 waived for court. It was scheduled to be a preliminary  
2 hearing, but it was waived.

3 Q. May I show it to you again?

4 A. Yes.

5 MR. STRETTON: I object to private  
6 conversations with the witness.

7 MS. FLAHERTY: I asked if she needed her  
8 glasses. She's struggling to read. I don't know if  
9 anyone has reading glasses with them.

10 THE WITNESS: I'm sorry, it was a  
11 preliminary arraignment.

12 MR. STRETTON: Object. I just looked at  
13 it. It's a preliminary hearing. It's a waiver. It  
14 says case waived over. Look on the second --

15 MS. FLAHERTY: Are we reading --  
16 misreading it?

17 MR. STRETTON: It's definitely a waiver.

18 JUDGE BARTON: The Court is holding the  
19 portion of Exhibit 62 that is the magisterial district  
20 judge 03-2-04 criminal docket, and the Court notes that  
21 on Page 2 of 2 down at the bottom under the docket entry  
22 information which tracks the process and procedure of  
23 the case because it shows 11/21 of 2011 criminal  
24 complaint filed December 1st, and that's the date  
25 referenced in Paragraph 138. It shows fingerprint order

1 issued. It shows subpoena issued via hand delivery.  
2 And up at the top of that page it shows bail action type  
3 set, bail action date December 1st unsecured \$5,000.  
4 The waiver of the preliminary hearing didn't occur until  
5 December 8th.

6 MR. STRETTON: Until what?

7 JUDGE BARTON: December 8th.

8 MR. STRETTON: It says 12/8 waived for  
9 court.

10 JUDGE BARTON: But we're talking about  
11 December 1st.

12 MR. STRETTON: The accuracy or inaccuracy  
13 I don't know, but we do know bail was set. We do know  
14 at some point it was waived whether it was the 1st or  
15 the 8th.

16 JUDGE BARTON: Ms. Flaherty, any other  
17 questions of this witness?

18 MS. FLAHERTY: No. Thank you.

19 JUDGE BARTON: The Court has some.

20 BY JUDGE MINEHART:

21 Q. First of all, the fingerprints were taken.  
22 It would appear to be a waiver -- an arraignment if that  
23 was happening. My question was that standard -- who  
24 decided what the bail would be or whether there would be  
25 secured bail versus unsecured bail? Who decided that,

1 you or the clerk?

2 A. I think in this particular instance because  
3 he knew he wasn't going to be in the next day I would  
4 have asked him what he wanted bail set at.

5 Q. So you didn't -- did you have situations  
6 where you or other clerks set the bail?

7 A. No, sir.

8 Q. How many times as far as matters such as  
9 criminal matters how often would you be left without the  
10 judge being there to make certain decisions on?

11 A. Again, it's hard to say. It happened more  
12 than 5 times and less than 100. Like he said, he had  
13 health issues, and he'd call at the last minute and say  
14 he wouldn't be in and handle things. Usually DUIs he  
15 had a set thing of 1,500 unsecured, so that's what we  
16 would go with.

17 Q. Did you ever get to a point where -- is there  
18 any reason why you wouldn't just continue those cases  
19 until his health was better, until he was in the  
20 courtroom?

21 A. He instructed me to handle them.

22 JUDGE MINEHART: Okay.

23 JUDGE BARTON: Judge Barrasse I think has  
24 some questions.

25 BY JUDGE BARRASSE:

1           Q.     Ms. Kale, we saw the video -- audio-video  
2     yesterday, and what was unclear is what was said before  
3     the huh. Was there anything said between the judge and  
4     that secretary at the time?

5           A.     He did say something. What it was now I  
6     don't recall, but he said something as he walked around  
7     behind her, yes.

8           Q.     The other one is you also indicated that at  
9     various times once the fees got increased on some of the  
10    fines that he substituted the charge.

11          A.     That's correct.

12          Q.     When you say he substituted the charge, was  
13    that with the acknowledgment or the consent of the  
14    prosecuting officer?

15          A.     Not always, no.

16          Q.     So you're saying he would make an agreement  
17    and then on his own substitute the charge on the  
18    paperwork that was being sent in to the county or state?

19          A.     That was on traffic citations, so it would be  
20    what money was sent to the state, yes, that's what  
21    happened, yes, on his own.

22          Q.     So would the parties have left the building  
23    when he substituted the charges?

24          A.     No, no. If the defendant showed up early and  
25    he talked to him, he could do it prior to the officer.

1 Or when the officer showed up, he would say, hey, I'm  
2 going to change it to 6308(a), and then that would  
3 happen.

4 JUDGE BARRASSE: Thank you.

5 JUDGE MINEHART: Would all that be done  
6 at the counter?

7 THE WITNESS: Yes.

8 JUDGE BARTON: Hearing no further  
9 questions from the Court, I'll award the counsel one  
10 final opportunity. Has the Court's questions raised any  
11 areas of inquiry?

12 MS. FLAHERTY: No. Thank you, Your  
13 Honor.

14 JUDGE BARTON: Mr. Stretton.

15 MR. STRETTON: No. Thank you.

16 JUDGE BARTON: Ms. Kale, at long last you  
17 can step down. You're free to go. The Board may call  
18 its next witness.

19 MS. FLAHERTY: The Board calls Amber  
20 Glass.

21 AMBER GLASS, called as a witness, having  
22 been duly sworn, testified as follows:

23 DIRECT EXAMINATION

24 BY MS. FLAHERTY:

25 Q. Good afternoon.

1 A. Hi.

2 Q. Could you please introduce yourself and spell  
3 your last name for the court reporter.

4 A. My name is Amber Glass. The last name is  
5 G-l-a-s-s.

6 Q. May I call you Amber during this direct  
7 examination?

8 A. Yes.

9 Q. Amber, where do you reside?

10 A. In Bath, Pennsylvania.

11 Q. And could you provide your address for the  
12 Court.

13 A. \_\_\_\_\_  
14 \_\_\_\_\_

15 Q. And would you please describe your  
16 educational background.

17 A. I received my GED in 2005. I have no college  
18 or anything.

19 Q. And how about your employment history, could  
20 you please recite that for us.

21 A. I worked as a legal secretary for Attorney  
22 Corriere for a few years.

23 Q. Could you provide the dates, please, to the  
24 best of your ability?

25 A. I was there from early 2005, like mid-2005



1     until probably about 2006.  And then I was unemployed  
2     for a while, home with my daughter.  And then I worked  
3     as a bartender from probably around 2008 until 2012.  
4     And then I became a district judge technician in  
5     September of 2012 through December 2013.  And now I'm  
6     currently employed from December 2013 till my current  
7     status as a 911 dispatcher in Northampton County.

8           Q.     Now, when you worked as a magisterial  
9     district technician, is that the same as a court clerk?

10          A.     Yes.

11          Q.     And where were you assigned?

12          A.     To District Court 03-2-04, Judge Tidd's  
13     office in Bethlehem, Pennsylvania.

14          Q.     And please name the clerks that you worked  
15     with during that September 2012 to December '13 period.

16          A.     I worked with Diane Kale and Brenda Anthony.

17          Q.     And is Brenda Anthony your mom?

18          A.     Yes, she is.

19          Q.     Could you please describe your working  
20     relationship with Judge Tidd.

21          A.     It was stressful.  It -- you know, it was --  
22     felt like it was a lot longer than a year.  There was a  
23     lot of running around, a lot of berating.  It was not  
24     always one of the things you wanted to go to work.

25          Q.     What do you mean by running around?

1           A.       I would run to the gas station to get drinks  
2 for him. He would ask me to run to his house to do  
3 something for his wife.

4                   MR. STRETTON:  Objection.  None of this  
5 is pled.  This is not a subject of this judicial  
6 complaint.

7                   JUDGE BARTON:  Ms. Flaherty, do you have  
8 a response?

9                   MS. FLAHERTY:  She's describing -- she  
10 was an employee that worked for Judge Tidd, and she's  
11 just describing -- she said it was stressful working for  
12 him, and she's describing the instances that added to  
13 that stress.

14                   MR. STRETTON:  It has nothing to do here.  
15 He's not charged with being --

16                   JUDGE BARTON:  He's not charged with  
17 creating a stressful environment.  While it's  
18 peripherally relevant, let's move forward to things that  
19 are more direct.

20 BY MS. FLAHERTY:

21           Q.       You also stated that Judge Tidd berated you.  
22 What did you mean by that?

23           A.       If -- when I first started, I didn't know  
24 really anything.  I didn't have any background in it, so  
25 I was still learning.  I didn't do things fast enough,

1 and he would -- you know, he would say what the hell's  
2 taking you so long, why aren't you finished yet, I don't  
3 understand why it's taking you so long to do one goddamn  
4 thing, things like that.

5 Q. Did Judge Tidd curse at you?

6 A. Yes.

7 Q. What kind of language did he use when he  
8 cursed?

9 A. He would say what the hell, goddamn, this  
10 shit is ridiculous, things like that.

11 Q. And what was his attire when he was at work?

12 A. Usually a polo shirt and khakis pretty much  
13 every day.

14 Q. During the time of September 2012 to  
15 December 2013, did you observe Judge Tidd donning his  
16 robe?

17 A. Not often, no.

18 Q. During the period you worked there, did you  
19 observe him conducting hearings in the courtroom?

20 A. I can remember maybe once or twice court was  
21 actually held in the courtroom.

22 Q. What happened instead?

23 A. Usually it was held at the counter in front  
24 of us as the clerks and whoever was in the lobby.

25 Q. And what kind of court matters did you

1 observe Judge Tidd handling at the counter?

2 A. There were usually traffic hearings and civil  
3 matters, landlord/tenant complaints or hearings that  
4 were being held. Everything was being held at the  
5 counter.

6 Q. Did you ever observe him engage in plea deals  
7 with officers on traffic citations in the absence of a  
8 defendant?

9 A. Yes.

10 Q. Did that happen frequently?

11 A. Yes.

12 Q. Did you ever witness him engaging in plea  
13 deals with defendants with the officer absent?

14 A. Yes.

15 Q. Did that occur frequently?

16 A. Yes.

17 Q. Did you observe him conduct waivers of  
18 preliminary hearings at the counter?

19 A. Yes.

20 Q. Did you personally ever report Judge Tidd's  
21 conduct to court administration?

22 A. No.

23 Q. Were you aware of any other clerks that you  
24 worked with that reported his conduct to court  
25 administration?

1 A. Yes.

2 Q. And who would that be?

3 A. Brenda Anthony and Diane Kale.

4 Q. Were you aware that Brenda Anthony and Diane  
5 Kale kept notes about incidents they observed at Judge  
6 Tidd's court?

7 A. Yes.

8 MR. STRETTON: Objection, leading.

9 MS. FLAHERTY: I didn't hear him.

10 JUDGE BARTON: The objection was leading.  
11 Do you have a response? I'll give her some latitude  
12 leading this witness in a preliminary matter.

13 MS. FLAHERTY: Could you read the  
14 question back to her, please.

15 (The court reporter read back the  
16 previous question.)

17 THE WITNESS: Yes.

18 BY MS. FLAHERTY:

19 Q. Did you participate in keeping notes on his  
20 conduct?

21 A. No, I did not.

22 Q. Now, you stated that you now work for 911?

23 A. Yes.

24 Q. And what does your job consist of?

25 A. I'm a dispatcher. I handle police matters

1 with the radio, answer phone calls.

2 Q. And what prompted you to stop working at  
3 Judge Tidd's court?

4 A. I was very stressed out working there, and I  
5 needed to find another job. Being berated and knowing  
6 that some of this stuff wasn't right I found another  
7 job.

8 Q. When you say knowing the stuff wasn't right,  
9 what do you mean by that?

10 A. Just the way things were run, the way  
11 hearings were held and just, you know, not feeling like  
12 I was doing a good enough job just I found another job.

13 Q. Amber, were you working at Judge Tidd's  
14 district court when the audiovisual system was  
15 installed?

16 A. Yes.

17 Q. Can you tell us what you remember about that  
18 process?

19 A. The technician came to speak with Diane Kale,  
20 Brenda Anthony, myself, and Judge Tidd about where the  
21 new camera needed to be placed and where the microphones  
22 were supposed to go and find out about a new door system  
23 that we were supposed to be putting in and where that  
24 button was supposed to go. That was -- he came one day  
25 to discuss all that and then came back a second day

1 after all the equipment was ordered to put everything  
2 in.

3 Q. And was Judge Tidd present during the time  
4 that the equipment was installed?

5 A. He was there in the morning and then in the  
6 afternoon left.

7 Q. When he was there in the morning, did he  
8 interact with the technician, do you recall?

9 A. He spoke with him a little bit, yes.

10 Q. When he was speaking with the technician, do  
11 you know if they discussed where the microphones and the  
12 audio portion of the CCTV and DVR should be placed?

13 MR. STRETTON: Objection. I mean, why  
14 don't we just have a sign, here's your answer? I mean,  
15 this is disputed some of this stuff.

16 JUDGE BARTON: I think the question's  
17 fine. I'm going to overrule the objection.

18 MR. STRETTON: She's leading.

19 JUDGE BARTON: She asked if she was aware  
20 if it was discussed. The answer is yes or no. Let's  
21 find out what the answer is. Overruled.

22 THE WITNESS: Yes. That was discussed at  
23 the first meeting before the equipment was ordered.

24 BY MS. FLAHERTY:

25 Q. And you were present you say on the date that

1 it was installed?

2 A. Yes.

3 Q. And do you recall that you signed off on a  
4 form that the installation tech provided to the court?

5 A. Yes.

6 MS. FLAHERTY: May I approach the witness  
7 with Exhibit 138?

8 JUDGE BARTON: Sure.

9 BY MS. FLAHERTY:

10 Q. Can you look at that and tell me is that the  
11 form that you signed?

12 A. Yes, it is.

13 Q. And that's your signature?

14 A. Yes, it is my signature.

15 JUDGE MINEHART: What is that? What is  
16 Number 138?

17 MS. FLAHERTY: That is the  
18 SimplexGrinnell form for the installation of -- it's for  
19 the installation of the audiovisual system that she  
20 signed off on.

21 JUDGE MINEHART: Okay.

22 MS. FLAHERTY: That's Exhibit 138, the  
23 SimplexGrinnell form.

24 BY MS. FLAHERTY:

25 Q. One final question on that system, to your



1 knowledge, were all the employees and the judge aware of  
2 the capabilities of that system?

3 A. Yes.

4 Q. Amber, we're going to be -- have you had an  
5 opportunity to review the Board complaint prior to  
6 today?

7 A. Yes.

8 Q. We're going to be looking at the section on  
9 improper demeanor beginning at Paragraph 22. I'm going  
10 to make every effort to confine my question to the time  
11 period that you worked at the court, but please correct  
12 me if I overstate it. During the period of  
13 September 2012 through December 2013, did Judge Tidd  
14 frequently treat his court clerks in a disrespectful  
15 manner in the reception area of the district court?

16 A. Yes.

17 MR. STRETTON: Object. I object to her  
18 point reading this. I want to see what she remembers.  
19 I object to her reading this kind of stuff to her. I  
20 want to see what she remembers. I vigorously dispute  
21 this testimony.

22 JUDGE BARTON: Why don't we have counsel  
23 step forward.

24 (Discussion held off the record at  
25 sidebar)

1 JUDGE BARTON: Mr. Stretton, that  
2 objection as I understand it is withdrawn. Is that  
3 correct?

4 MR. STRETTON: That is correct.

5 JUDGE BARTON: You may proceed,  
6 Ms. Flaherty.

7 MS. FLAHERTY: Thank you, Your Honor.  
8 Now I will ask the court reporter to reread the  
9 question, please.

10 (The court reporter read back the  
11 previous question.)

12 THE WITNESS: Yes.

13 BY MS. FLAHERTY:

14 Q. And when he treated the court clerks in a  
15 disrespectful manner, were there other people there?

16 A. Yes.

17 Q. Do you recall who those others were?

18 A. Some were officers. Some were defendants.  
19 Some were attorneys.

20 Q. Do you recall during the period  
21 September 2012 through December 2013 that Judge Tidd  
22 belittled, cursed, and yelled at his court clerks in the  
23 reception area of the court?

24 A. Yes.

25 Q. Do you recall if he did such conduct in front

1 of other people?

2 A. Yes.

3 Q. And do you recall who would have observed the  
4 belittling, cursing, and yelling?

5 A. Officers, defendants, attorneys.

6 Q. During the time period of September 2012  
7 through December 2013, did you personally ever hear  
8 Judge Tidd use the words fuck, bitch, fucker, and mother  
9 fucker, all in quotations, when speaking to or in the  
10 presence of the clerks?

11 A. Yes.

12 Q. Did he ever use one of those words when  
13 addressing you?

14 A. Yes.

15 Q. Can you identify which one?

16 A. He would say what the fuck is taking you so  
17 long.

18 Q. Did that happen on more than one occasion?

19 A. Yes.

20 Q. We're now at Paragraph 26. During the time  
21 period September 2012 through December of 2013, do you  
22 recall if Judge Tidd made crude, disrespectful comments  
23 about litigants who appeared at his district court?

24 A. Yes.

25 Q. Did he do this in front of other people?

1 A. Yes.

2 Q. Do you recall who those other people were?

3 A. Defendants, attorneys that were in the  
4 waiting room.

5 Q. Did he make those types of comments in front  
6 of police officers?

7 A. Yes. The officers were in and out of the  
8 court all day.

9 Q. We're now going to move to Page 18, ex parte  
10 communications regarding traffic matters. Amber, do you  
11 recall if during the period between September 2012 and  
12 December 2013 if Judge Tidd discussed summary traffic  
13 charges with defendants who appeared at the court before  
14 the citing officer?

15 A. Yes.

16 Q. Did that occur on a routine basis?

17 A. Yes.

18 Q. Paragraph 61, do you recall when Judge Tidd  
19 discussed traffic matters with defendants prior to the  
20 officer arriving if he asked them, the defendant, if he  
21 would -- excuse me, if he would ask the defendants if  
22 they would agree to enter a plea to a lesser charge?

23 A. Yes.

24 Q. Did that happen on a frequent basis?

25 A. Yes.

1 Q. Moving to Paragraph 65, during the period of  
2 September of 2012 through December of '13, did you  
3 observe Judge Tidd initiate discussions about traffic  
4 summary charges with officers who arrived at his court  
5 before the defendants?

6 A. Yes.

7 Q. On those occasions when Judge Tidd discussed  
8 the citations with the officer prior to the arrival of  
9 the defendants did Judge Tidd ask the officer if they  
10 would be willing to change the charged violation to a  
11 lesser offense?

12 A. Yes.

13 Q. Did that happen on a routine basis?

14 A. Yes.

15 Q. Paragraph 67, when a defendant arrived after  
16 an officer had agreed to change the charged summary  
17 violation, did Judge Tidd directly address the defendant  
18 and ask if he or she was willing to enter a plea to the  
19 lesser offense?

20 A. Yes.

21 Q. Did you observe that on a frequent basis?

22 A. Yes.

23 Q. During the time period that you worked at  
24 Judge Tidd's court, September '12 to December 2013, were  
25 you aware that Attorney Burke failed to timely enter a

1 plea or pay fees on parking tickets issued to his  
2 vehicle?

3 A. Yes.

4 Q. Can you tell us what you recall about  
5 Attorney Burke's tickets?

6 A. We would send out notices and letters saying  
7 that the parking tickets were not paid. We would get no  
8 response. And then we would issue a warrant. And then  
9 he would come in, and then we would have -- I didn't do  
10 it myself personally. I didn't handle warrants. One of  
11 the other clerks was informed to mark the warrant back  
12 and not charge him the fees.

13 Q. Did Judge Tidd ever ask you to track warrants  
14 that may have been issued to Attorney Burke?

15 A. No.

16 Q. Was it your responsibility to issue warrants?

17 A. No.

18 Q. What were your responsibilities during the  
19 time you worked there?

20 A. I handled the entry of traffic citations,  
21 handled payments for any defendants coming in to make  
22 payments. I handled payment arrangements for any  
23 payment plans that we handled. I entered criminal  
24 cases, civil cases, landlord/tenant cases. I didn't  
25 handle the warrant end of it.

1 JUDGE BARTON: Anything further?

2 BY MS. FLAHERTY:

3 Q. Did you ever hear Judge Tidd --

4 JUDGE BARTON: Anything further?

5 MS. FLAHERTY: Yes. I'm sorry, I'm  
6 trying to scan through what's been stipulated through so  
7 that I don't --

8 JUDGE BARTON: Please proceed.

9 MS. FLAHERTY: Thank you.

10 BY MS. FLAHERTY:

11 Q. Did you ever hear Judge Tidd instruct other  
12 clerks to track Attorney Burke's parking tickets?

13 A. Yes.

14 Q. Do you know who did he tell that to?

15 A. Diane Kale and Brenda Anthony.

16 Q. And did you ever hear Judge Tidd ask them not  
17 to issue warrants to Attorney Burke?

18 A. Yes.

19 MS. FLAHERTY: We're now going to proceed  
20 to Failure to Accord Full Right to be Heard at Page 31.

21 BY MS. FLAHERTY:

22 Q. During the time that you were assigned to  
23 Judge Tidd's court in September 2012 to December 2013,  
24 did you observe Judge Tidd conducting summary trials,  
25 landlord/tenant hearings, preliminary hearings, and

1       waivers of preliminary hearings at the counter?

2           A.       Yes.

3           Q.       You said on a couple of instances you did  
4       observe Judge Tidd go into the courtroom for a hearing?

5           A.       Yes.

6           Q.       And when would that occur?  What would prompt  
7       that?

8           A.       Any high-profile cases or things like that.

9           Q.       What do you mean by a high-profile case?

10          A.       Anything that would draw attention from the  
11       press or the district attorneys.

12          Q.       Would Judge Tidd also go into the courtroom  
13       if a defendant or his attorney specifically requested a  
14       hearing on a citation?  Did you observe that?

15          A.       That I did not observe.

16          Q.       Did you observe -- this is at Paragraph 130.  
17       During the time that you worked at the court  
18       September 2012 to December 2013, did you observe Judge  
19       Tidd conducting waivers of preliminary hearings?

20          A.       Yes.

21          Q.       And where did those -- where were those  
22       conducted?

23          A.       Usually at the counter.

24          Q.       During those waivers at the counter, did you  
25       observe Judge Tidd informing defendants of the charges?



1           A.     No.

2           Q.     During those waivers at the counter, did you  
3 observe Judge Tidd or hear Judge Tidd tell the  
4 defendants to read the criminal complaint?

5           A.     No.

6                     MS. FLAHERTY: This is on Page 53,  
7 Paragraph H, Failure to Wear Judicial Robes.

8 BY MS. FLAHERTY:

9           Q.     During the time period that you worked at  
10 court, September 2012 through December 2013, when you  
11 observed Judge Tidd conducting traffic summary trials,  
12 landlord/tenant hearings, preliminary arraignments, and  
13 waivers of preliminary hearings at the counter, did he  
14 wear his judicial robes?

15          A.     No.

16          Q.     Amber, during the time period that you worked  
17 at Judge Tidd's court, did he ever instruct you to  
18 handle matters in his absence?

19          A.     Yes.

20          Q.     Could you describe that?

21          A.     It was only a few times, and it would be to  
22 set -- he would call and give instructions to set bail  
23 before he reviewed the file and have everything ready  
24 before he would get back.

25          Q.     So he was asking you to prepare the paperwork

1 for a bail in preparation for an arraignment?

2 A. Yes.

3 Q. Did he ever ask you to handle matters at the  
4 counter other than that?

5 A. No.

6 Q. Did you ever hear him tell other clerks to  
7 handle matters in his absence?

8 A. Yes.

9 Q. Who did he tell that to?

10 A. Brenda Anthony and Diane Kale.

11 Q. And were you at court on days when they would  
12 handle matters?

13 A. Some days, yes.

14 Q. Do you remember anything specific?

15 A. No.

16 MS. FLAHERTY: Thank you.

17 JUDGE BARTON: Mr. Stretton, any  
18 questions for this witness?

19 MR. STRETTON: Yes, I do. Thank you.

20 JUDGE BARTON: You may proceed, sir.

21 CROSS-EXAMINATION

22 BY MR. STRETTON:

23 Q. Good afternoon, Ms. Glass. Can you hear me  
24 okay?

25 A. Yes, I can.

1 Q. Just a few questions. You were pretty close  
2 to your mom during this time period when you were  
3 working for Judge Tidd?

4 A. Yes.

5 Q. In fact, she asked the judge if he would hire  
6 you. Am I correct?

7 A. I believe so. I don't know that for certain.

8 Q. Now, during this year all these complaints  
9 that you've told the Court today, did you ever write  
10 anything down yourself during that year?

11 A. No, I did not.

12 Q. Did you ever submit any complaints to anyone  
13 during that year, Ms. French or Judge McFadden?

14 A. No.

15 Q. When your -- were you aware that at some  
16 point after you left about a year -- a year later or so  
17 your mom filed some anonymous complaints? Were you  
18 aware of that?

19 A. No, I was not.

20 Q. So you didn't participate in those  
21 complaints?

22 A. No.

23 Q. So at no time did you complain to anyone  
24 about the conduct that you've described today?

25 A. No.

1 Q. Now, during this time period, the videos were  
2 on at least some of the times when you were working  
3 there. Am I correct?

4 A. Yes.

5 Q. So all these cursing and screaming and things  
6 like that where are the videos?

7 A. I didn't take those. I don't -- when I left,  
8 I left. I didn't have access to the videos.

9 Q. Well, three videos were preserved. We've  
10 seen one. We're going to see two more. How about all  
11 the rest of them?

12 A. I don't know where they are.

13 Q. I mean, if all this cursing and screaming was  
14 occurring, they'd be all over the videos every day,  
15 right?

16 A. Yes.

17 Q. Are you aware we tried to get videos but  
18 there is none?

19 A. They are only preserved for so long, yes, and  
20 then they get deleted.

21 Q. So what did your mom and her friends preserve  
22 the three and let the others go?

23 MS. FLAHERTY: Objection.

24 JUDGE BARTON: Sustained.

25 BY MR. STRETTON:

1 Q. But you were aware because you helped and  
2 participated and signed for the documents for the  
3 system. Am I correct?

4 A. I knew that they were put in, yes.

5 Q. Why didn't you say let's preserve -- he was  
6 cursing at me today, why don't we preserve that video?

7 A. I didn't.

8 Q. Well, how about your mom, she would have seen  
9 you being demeaned as you've described it. Did your mom  
10 try to preserve those videos?

11 A. I can't say if she did or not.

12 Q. Now, let's go back. When is the first time  
13 you told anyone what you're telling us today?

14 A. I discussed it with Attorney Flaherty when I  
15 spoke with her.

16 Q. That was what, a couple weeks ago?

17 A. Yes.

18 Q. Is that the first time?

19 A. That's the first time I spoke with it --  
20 about it with anybody, yes.

21 Q. And you left on your own volition. Is that  
22 my understanding?

23 A. Yes, I did.

24 Q. And then you went to your current job where  
25 you're doing 911 calls during the day or evening,

1 whenever your shift is?

2 A. Yes.

3 Q. Now, do you remember when Judge Tidd lent  
4 your mom \$750?

5 A. I have no knowledge of that. I wasn't privy  
6 to that information.

7 Q. But you heard about it, right, that he helped  
8 her?

9 MS. FLAHERTY: Objection.

10 JUDGE BARTON: What's the basis for your  
11 objection?

12 MS. FLAHERTY: She just stated she had no  
13 knowledge of it. It was asked and answered.

14 JUDGE BARTON: She stated she wasn't  
15 privy. He was inquiring whether she had any knowledge.  
16 Overruled.

17 THE WITNESS: No, I didn't have any  
18 knowledge of it.

19 BY MR. STRETTON:

20 Q. There was an instant, though, that occurred  
21 where your mom accused you of taking some money, petty  
22 cash, right? Remember that?

23 MS. FLAHERTY: Objection. There's  
24 nothing in the complaint pertaining to petty cash for  
25 this Court's system. It's irrelevant to what the

1 Board -- the Court is deciding here today.

2 MR. STRETTON: She's not the defendant.

3 JUDGE BARTON: It goes to bias. It goes  
4 to the weight of testimony. Overruled.

5 BY MR. STRETTON:

6 Q. Am I right you were accused by your mom for  
7 taking petty cash when you were working there or not  
8 accounting for certain funds?

9 A. Yes.

10 Q. And Judge Tidd and you had a long talk about  
11 that. Am I right?

12 A. We did quite a few years ago.

13 Q. That was when you were working there?

14 A. No, not when I was working there. It was  
15 after I left.

16 Q. But it was -- you were alleged to have done  
17 it during the time that you worked there?

18 A. Yes, I believe that was what was said, yes.

19 Q. And Judge Tidd sat down, talked to you and  
20 worked with you on that issue, helped you with your  
21 mother on that issue. Am I right?

22 A. He asked questions about it and if I did it,  
23 and I told him no.

24 Q. He could have done something to you, he could  
25 have filed criminal charges or anything. Am I right?

1 A. Yes.

2 Q. But he didn't do it, did he?

3 A. No.

4 Q. You had a long tearful meeting with him. Am  
5 I correct?

6 A. It wasn't a long meeting, but, yes, we had a  
7 meeting.

8 Q. Did you ever say to him at any time why did  
9 you curse and scream at me like you did during that  
10 year? Did you ever say anything to him about that?

11 A. No.

12 Q. Did your mom ask you to come in and testify?

13 A. No.

14 Q. So it's now four, five years ago since these  
15 acts supposedly occurred. If I checked every record,  
16 anything, I would find no record of you ever making any  
17 of these complaints before you talked to Ms. Flaherty.  
18 Is that what you're telling me?

19 A. That's correct.

20 Q. Now, if I recall your testimony, you said he  
21 was only -- during the year you were there former Judge  
22 Tidd was only in the courtroom on one or two occasions  
23 that whole year. Is that what you said?

24 A. Correct.

25 Q. And if I understood your testimony correctly,



1 he was having hearings, people testifying everything  
2 else at the counter?

3 A. Correct.

4 Q. Now, during those days when he was having all  
5 those hearings at the counter, was Diane Kale there?

6 A. Yes.

7 Q. So he was doing landlord/tenant trials at the  
8 counter where people were testifying. Is that your  
9 testimony?

10 A. Yes.

11 Q. And he was doing preliminary hearings at the  
12 counter where police would testify. Is that your  
13 testimony?

14 A. Yes.

15 Q. And we don't have any videos of that?

16 A. I don't have any videos, no. I didn't --

17 Q. And you can do truancy trials at the counter?

18 A. Yes.

19 Q. Now, do you think you might be mistaken,  
20 there were no trials at the counter, just pleas? Do you  
21 think you might be mistaken?

22 A. No. There were trials at the counter.

23 Q. Well, there were a lot of trials according to  
24 you. There was only one trial -- two trials in the  
25 courtroom the whole year?

1 A. That I observed, yes.

2 Q. Well, you're there every day almost. Am I  
3 right?

4 A. We have days off.

5 Q. I understand that.

6 A. I mean --

7 Q. You have sick days, vacation days, but you  
8 were there that year at least 48 weeks or 50 weeks of  
9 that year. Am I correct?

10 A. Yes.

11 MR. STRETTON: Thank you.

12 MS. FLAHERTY: Just a redirect briefly.

13 JUDGE BARTON: Very brief.

14 MS. FLAHERTY: Thank you.

15 REDIRECT EXAMINATION

16 BY MS. FLAHERTY:

17 Q. Ms. Glass, although when Mr. Tidd asked you  
18 if you had complained to anybody and you responded no,  
19 but do you recall an interview by board investigator,  
20 Sean Brennan, in July of 2015?

21 A. Yes.

22 Q. And at that time did you discuss some of this  
23 information that you discussed here today?

24 A. Yes, I do.

25 Q. And was your name at the time -- your last

1 name, what was your last name at the time?

2 A. At the time of the interview?

3 Q. Yes, in July 2015.

4 A. It was Glass. It was not Butz. It was Butz  
5 when I worked at the district court.

6 Q. We have on our report of interview at that  
7 time it was Butz, but it already was Glass at that time?

8 A. Yes.

9 Q. Thank you. And do you recall on  
10 October 17th, 2016 that you had an interview with Board  
11 investigator, Paul Fontanez?

12 A. Yes.

13 Q. And do you recall at that time that you  
14 discussed primarily the information pertaining to the  
15 audio-video system that you began your testimony today?

16 A. Yes.

17 MR. STRETTON: May I see those  
18 statements? I don't have them.

19 MS. FLAHERTY: Yes, you do. We did  
20 provide them to him in discovery with the first  
21 July 2nd, 2015 and in terms of ongoing discovery at the  
22 October 17, 2016. We'll be happy to provide additional  
23 copies.

24 MR. STRETTON: May I see them now because  
25 I might want to question.

1 JUDGE BARTON: I'm not sure of the  
2 significance. She's testified here today as to things.  
3 Perhaps her recollection is faulty as to the prior  
4 complaint. You've clarified that. As to the substance,  
5 she's already testified today to the substance of what  
6 occurred. I don't understand why we want to spend time  
7 on the prior complaint. I understand Mr. Stretton has  
8 the documents, though, right?

9 MR. STRETTON: No.

10 JUDGE BARTON: These were documents that  
11 were produced in discovery. Is that correct?

12 MS. FLAHERTY: Yes.

13 MR. STRETTON: Put it this way, I've gone  
14 through everything I have, and I don't have them. Now,  
15 maybe somehow -- remember, we got tons of material.  
16 They weren't organized in any fashion. We had to pull  
17 things out. But maybe I missed them. But I've just  
18 gone through everything here. I can't find them. If I  
19 missed them, I missed them. But I do want to see them.

20 JUDGE BARTON: Let's pause. Perhaps  
21 Ms. Schreffler can show you a copy.

22 MS. SCHREFFLER: Of the report?

23 JUDGE BARTON: The document which we're  
24 discussing right now which is the report of interview of  
25 Ms. Glass's investigatory interview. There were two,

1 correct?

2 MS. FLAHERTY: There were two.

3 MR. STRETTON: Thank you. I have no  
4 other questions.

5 JUDGE BARTON: Any questions from the  
6 Bench?

7 BY JUDGE MINEHART:

8 Q. How old were you when you started this job?

9 A. I was 28 -- I'm sorry, 27.

10 Q. Twenty-seven. How long was it before -- you  
11 testified that former Judge Tidd berated you. How long  
12 was it before he started to berate you at your job? How  
13 long in terms of weeks, months, days?

14 A. Just a few months, probably about three or  
15 four months.

16 Q. Three or four months in?

17 A. Yes.

18 JUDGE MINEHART: That's all I have.

19 JUDGE BARTON: Any questions if necessary  
20 based on questions from the Bench?

21 MS. FLAHERTY: No. Thank you.

22 MR. STRETTON: No.

23 JUDGE BARTON: We'll take a five-minute  
24 break. Ms. Glass, you are excused. Thank you for your  
25 testimony this afternoon.

1 (Recess taken)

2 JUDGE BARTON: We're back. Ms. Flaherty,  
3 you may proceed.

4 MS. FLAHERTY: Thank you. The Board  
5 calls Tracie Drayton.

6 TRACIE DRAYTON, called as a witness,  
7 having been duly sworn, testified as follows:

8 JUDGE BARTON: Let's go off the record  
9 for a second.

10 (Discussion held off the record at  
11 sidebar)

12 JUDGE BARTON: You may proceed,  
13 Ms. Flaherty.

14 DIRECT EXAMINATION

15 BY MS. FLAHERTY:

16 Q. Good afternoon, Ms. Drayton.

17 A. Hi.

18 Q. May I call you Tracie during the exam?

19 A. Sure, that's fine.

20 Q. Could you please introduce yourself to the  
21 Court and spell your last name for the court reporter.

22 A. D as in dog-r-a-y-t-o-n.

23 Q. And your first name, do you want to spell  
24 that for her, too.

25 A. Sure, Tracie, T-r-a-c-i-e.

1 Q. Tracie, what is your educational background?

2 A. I have an associate's degree in business  
3 administration and accounting.

4 Q. And where did you get that degree and when?

5 A. I got that degree in 1992 from Churchman's  
6 Business School in Easton, Pennsylvania.

7 Q. And could you please describe your employment  
8 history.

9 A. I've worked for Northampton County since  
10 December of 2012 and for the district court since  
11 January of 2015.

12 Q. And are you still -- which court were you  
13 assigned to starting in January 2015?

14 A. 03-2-04 which would have been Judge Tidd's  
15 court in Lower Saucon Township, Hellertown Borough.

16 Q. And I did forget to ask you where you reside.

17 A. I live in Hellertown, Pennsylvania.

18 Q. Could you provide your address as well.

19 A. Sure. \_\_\_\_\_  
20 \_\_\_\_\_

21 Q. And you say you started in Judge Tidd's court  
22 in January 2015 and you continue to work at that same  
23 court now?

24 A. Yes.

25 Q. And who is the judge presiding?

1           A.     Right now we have Senior Judge Elizabeth  
2 Romig-Gainer.

3           Q.     And was she the first to come in after Judge  
4 Tidd's resignation?

5           A.     No.

6           Q.     How did things work from the day he resigned?

7           A.     We had another -- the day after we found out  
8 that he had resigned we got Senior Judge Anthony Rapp.  
9 He was there for the whole month of August, and then  
10 since September we've had Judge Romig-Gainer.

11                   JUDGE BARTON: Counsel, can you help me  
12 understand starting with the day after Judge Tidd  
13 resigned how is that relevant to what brings us here?

14                   MS. FLAHERTY: Just that I'm trying to  
15 establish if she's worked with more than two judges.  
16 She's had exposure to three judges now. That's all.  
17 It's not going further than that.

18                   JUDGE BARTON: Let's proceed directly.

19 BY MS. FLAHERTY:

20           Q.     Who were the clerks that you've worked with  
21 at the district court?

22           A.     I work with Brenda Anthony. I work with  
23 Cassandra Bettler still presently. And the third girl  
24 in our office is Krystal Allman.

25           Q.     And could you describe your working



1 relationship with Judge Tidd?

2 A. I didn't personally have any I mean problems  
3 other than the minor issues as to why I'm here. As far  
4 as my work when I first started, I was, you know,  
5 trained between Cassandra and Brenda. I didn't really  
6 have any problems, you know, with him in the beginning  
7 as far as my work was concerned.

8 Q. And did you ever have the occasion where  
9 Judge Tidd cursed at you?

10 A. Yes.

11 Q. Can you describe that incidence?

12 A. The one particular time I remember in  
13 particular was in August of 2015 it actually happened to  
14 be my birthday. I don't know if it was the day before  
15 or that morning, I don't really remember the time frame,  
16 he had said something about bringing in a cake. And I  
17 really -- it didn't really matter to me either way.  
18 Later on that day on my birthday I remember standing at  
19 the water cooler and joked around with him and said, oh,  
20 I still haven't gotten my cake, you know, just kind of,  
21 you know, making light of it because I really didn't  
22 care. And he asked me why was I being such a bitch.

23 Q. Did he say to you why are you being such a  
24 bitch on more than one occasion?

25 A. Yes. But I don't have specific dates. I

1 just know it happened more than once.

2 Q. Can you estimate how many times that  
3 happened?

4 A. Two or three.

5 Q. When you worked at the -- from January 2015  
6 till the time Judge Tidd resigned in July 2016, did you  
7 observe Judge Tidd conducting hearings in the courtroom?

8 A. Not really. They were usually at the  
9 counter.

10 Q. And how was he attired when he was at the  
11 counter?

12 A. He didn't usually wear -- his robe usually  
13 was not on.

14 Q. And do you recall what type of court matters  
15 he handled at the counter?

16 A. All of them.

17 Q. Can you be more specific?

18 A. Well, we handle -- we have traffic  
19 citations -- we have traffic tickets, non-traffic,  
20 civil, landlord/tenant, and criminal.

21 Q. Did you ever have occasion to complain to  
22 court administration about Judge Tidd?

23 A. I personally never spoke with anybody there,  
24 no.

25 Q. Were you aware of other clerks who did

1 complain about his conduct?

2 A. Not when I first started. It was not till I  
3 was there maybe about five or six months in 2015 that I  
4 find out that anything had been happening, had been  
5 going on.

6 Q. And how did you -- when you say not until  
7 five months, was there a particular occasion when you  
8 learned?

9 A. It was after the primary election in May.  
10 That's when I was kind of just let in that there was,  
11 you know, things happening. I really didn't question  
12 too much. I didn't really want to -- I was told. I  
13 didn't ask any further questions on anything involving  
14 it.

15 Q. What's your personal work style?

16 A. I like to keep busy. I like to learn as much  
17 as I can. And I get along with everybody. Usually  
18 wherever I work I don't have any, you know, problems.  
19 And I just -- I like to do my work, make sure it's done  
20 properly, and go home at the end of the day to my  
21 family.

22 Q. Now, you said that you observed or you  
23 learned about issues at the court around the time of the  
24 primary election. Are you referring to May 19, 2015  
25 primary election day?

1 A. Yes.

2 Q. And were you present at the court on that  
3 day?

4 A. Yes.

5 Q. And did you -- during that time you were at  
6 district court on May 19, 2015, did you observe the  
7 incident where Judge Tidd came to the court and was  
8 upset that he had cases scheduled?

9 A. Yes.

10 Q. Do you recall prior to election day if Judge  
11 Tidd told you not to schedule cases that day?

12 A. I just remember being told we were to add  
13 any -- we were not to add any more to that day because  
14 usually we schedule about a month in advance. And other  
15 than that, no, I don't. That was the only thing I knew  
16 that I was told not to add any more to that day.

17 Q. Did Judge Tidd tell you that directly, not to  
18 add more to that day?

19 A. I think it was just said to the whole office  
20 on a whole. I don't remember it being specific to me.  
21 At that point it probably would not have been specific  
22 to me.

23 Q. So if Judge Tidd said to you don't add any  
24 more to that day, were there already cases scheduled?

25 A. Yes.

1 Q. Do you recall how many?

2 A. Two or three. It wasn't -- it was not nearly  
3 a full day's worth of hearings.

4 MS. FLAHERTY: We're going to show a  
5 video at this time. And I'm going to ask Toni,  
6 Ms. Schreffler, to begin and then pause soon thereafter  
7 so that Ms. Drayton has an opportunity to identify the  
8 persons who are there.

9 (The video recording was played.)

10 BY MS. FLAHERTY:

11 Q. Ms. Drayton, can you identify who are at the  
12 work stations at the district court, please.

13 A. I'm in the back in the green shirt. The girl  
14 to my right is Krystal Allman. And the other one is  
15 Brenda Anthony.

16 Q. Thank you.

17 (Play of the video recording was  
18 resumed.)

19 MS. FLAHERTY: I do apologize to the  
20 Court. If you had wanted to follow along at all with  
21 the transcript, it's at Board Exhibit 12B.

22 (Play of the video recording was  
23 resumed.)

24 BY MS. FLAHERTY:

25 Q. Tracie, having observed that video, do you

1 recall that incident --

2 A. Yes.

3 Q. -- on election day? And how did you react to  
4 it?

5 A. I had been in the kitchen. I was making my  
6 breakfast. I just -- I kind of hung out there till  
7 everything blew over. I wasn't sure what I was going to  
8 expect to continue to happen, so I just stayed in there,  
9 made my breakfast, and then that's when you see me come  
10 out, and I went back to my desk.

11 Q. And who is the police officer that was there?

12 A. That was Officer Bencsics. He at the time  
13 was working for Lower Saucon Police Department.

14 Q. And during that video, we heard Judge Tidd  
15 exclaiming that he had the day off. Were you aware that  
16 he had the day off?

17 A. No.

18 Q. Had he marked the calendar that he had the  
19 day off?

20 A. Honestly I don't remember. All I know is  
21 that we had been told, you know, not to add any more  
22 hearings to that date.

23 Q. Do you believe that it was appropriate for  
24 Judge Tidd to speak that way to Brenda?

25 A. No.

1 MR. STRETTON: Objection.

2 JUDGE BARTON: What's your objection?

3 MR. STRETTON: I don't think we need her  
4 comments on it. We heard it. We don't need her to  
5 characterize it.

6 JUDGE BARTON: Isn't that the best  
7 evidence?

8 MS. FLAHERTY: She was a court clerk in  
9 that atmosphere, and she -- her thoughts about the  
10 appropriateness would inform whether or not she believes  
11 Judge Tidd was treating them in a patient, dignified,  
12 and courteous manner which is one of the things charged  
13 in this Board complaint.

14 MR. STRETTON: That's for you to  
15 determine, not for her.

16 MS. FLAHERTY: It goes to the evidence to  
17 support that charge.

18 JUDGE BARTON: The evidence of the  
19 videotape I think is the best evidence of what occurred.  
20 I'll sustain that objection.

21 BY MS. FLAHERTY:

22 Q. Did you have any interaction with Officer  
23 Bencsics on that day?

24 A. Like I said, the kitchenette is off to the  
25 would have been Officer Bencsics' right. I just

1 happened to look out. He kind of made like a weird eye  
2 contact with me as far as, you know, we were both unsure  
3 as to what was going on. Other than that, we did not  
4 speak to each other, no.

5 Q. Do you recall an incident on April 23rd, 2015  
6 when Judge Tidd locked the door of the district court?

7 A. Yes.

8 Q. Can you please describe that incident.

9 A. It was in the afternoon. He came barreling  
10 into the office. He locked the main door to the office  
11 behind him and said that he needed to talk to us. He  
12 had heard that supposedly somebody from the staff was  
13 leaking information to his running mate and demanded  
14 that we tell him who it was.

15 Q. Do you recall if he asked if anyone had  
16 complained about him?

17 A. On that specific date in April?

18 Q. Yes.

19 A. No, I don't -- I don't remember him saying  
20 that. I know he was just very demanding as far as  
21 telling us who spoke with him, he wanted to know, why  
22 would you do that, you know, just running all the  
23 questions and making us tell. I had no idea what he was  
24 talking about, so.

25 Q. So how did you respond to him?



1           A.     I just sat there. I didn't speak through the  
2 whole thing. I just was sitting at my desk curious of  
3 how long we were going to be locked in the office.

4           Q.     And did you ever discuss that incident with  
5 Debra French?

6           A.     I personally did not, no. If any of the  
7 other girls did, I am not sure and when, I would not  
8 know that, no.

9           Q.     Do you recall about how long you were in the  
10 office that day?

11          A.     Probably no more than a half an hour. But it  
12 was also in the middle of the afternoon. There could  
13 have been defendants or clients, anybody trying to come  
14 in. I don't recall anybody coming to the office, but it  
15 was in the middle of our afternoon while we were still  
16 open till 4:30.

17          Q.     And when Judge Tidd locked the door to the  
18 office, can you describe the tone of voice he used in  
19 speaking to you?

20          A.     He was harsh. He was demanding. He wanted  
21 to know who had been speaking to his opponent giving  
22 information or anything like that. He just was rather  
23 demanding wanting to know who was doing it.

24          Q.     And during that time, did you feel that you  
25 could leave?

1           A.     No.  The thoughts were going through my head  
2     how long were we going to be locked in the office and if  
3     I could grab my purse and my phone and there's an exit  
4     door right behind my desk.  And if we would have been  
5     there any longer, I was going to leave because it was  
6     kind of not right to be having us locked in the office.

7           Q.     Did you discuss that plan with the other  
8     clerks after --

9           A.     No, no.

10          Q.     During the time that you worked for Judge  
11     Tidd which can you refresh me on those dates?  
12     January 2015?

13          A.     January 2015, correct.

14          Q.     To July 2016?

15          A.     Correct.

16          Q.     Did Judge Tidd treat his clerks in a  
17     disrespectful manner in the reception area of the  
18     district court?

19          A.     There were times that he wasn't always nice.  
20     I mean, as far as disrespectful, there were times that  
21     that happened, yes.  I can't say if it was just us in  
22     the office.  Sometimes there could have been, you know,  
23     defendants around.  But usually it was just when it was  
24     us.

25          Q.     Do you recall an incident around Halloween

1 where he was disrespectful to you?

2 A. To me, yes. We had put candy -- Halloween  
3 candy out that Halloween, and I believe it was towards  
4 the end of the week it was first thing in the morning.  
5 All the girls we all know in the office that Judge Tidd  
6 liked candy. That wasn't a big secret. He happened to  
7 be going through the candy jar, and I looked up and just  
8 kind of chuckled, and he asked me what was I laughing  
9 at. I said, well, you're digging in the candy and, you  
10 know, it's 9:00 in the morning, you know, just whatever.  
11 And he said, well, here, what, I'm not supposed to eat  
12 the candy. I said, no, you can have the candy, I don't  
13 care. He said, no, you eat it. And he threw it at me,  
14 and it bounced off my arm and hit the floor. I was a  
15 little taken aback that he threw a piece of candy at me,  
16 so I picked it up and I put it on my ledge and told him  
17 I didn't want the candy he should have it. And he said,  
18 no, you can eat it. And I just left it sit there and  
19 just let it go for the most part.

20 And then later that morning I believe before  
21 he left he said something to me that he'd have to worry  
22 about me being mad at him by the time he came back to  
23 the office. I told him, no, the next time I see you  
24 this matter will be forgotten because I was still taken  
25 aback of the fact that he threw candy at me. And I let

1 it go.

2 The next time I saw him, it was either the  
3 next morning or maybe even that Monday, another officer  
4 came in, I don't remember who it was, and he also went  
5 in the candy, and he looked at the officer and then  
6 looked at me and said, you better ask Tracie if you can  
7 have the candy. And then I looked at him and said,  
8 you're going back to that subject when I had totally  
9 forgotten about it and just dropped it. And then he  
10 didn't really say anything. And that was the end of  
11 that.

12 Q. Did you feel embarrassed in front of the  
13 officer?

14 A. No, not really. I just was taken aback for  
15 the fact that he's, you know, the judge and my boss and  
16 why would he throw candy at me. Like I kind of was just  
17 shocked by the whole thing that he actually threw it and  
18 it hit me on the arm and hit the floor.

19 Q. During the time that you worked for Judge  
20 Tidd -- and we're in improper demeanor at Paragraph  
21 24 -- did you ever hear Judge Tidd use the following  
22 words, and they're in quotations, fuck, bitch, fucker,  
23 and mother fucker, when speaking to or in the presence  
24 of the clerks?

25 A. Yes.

1 Q. Did you hear him say all of those words?

2 A. At one time or another, yes, definitely  
3 because obviously he called me a bitch. And then there  
4 was an incidence where he used one of the other words to  
5 one of the other clerks in the office.

6 Q. Which one of the other words?

7 A. Mother fucker.

8 Q. To whom did he say that?

9 A. Cassandra Bettler.

10 Q. Were you present at the district court on  
11 February 19, 2016?

12 A. Yes.

13 Q. And did you observe Judge Tidd confront  
14 Cassie Bettler after receiving a letter from the Board?

15 A. Yes.

16 MS. FLAHERTY: We'd like to play that  
17 video now, please. And the transcript is at  
18 Exhibit 12-C.

19 (The video recording was played.)

20 BY MS. FLAHERTY:

21 Q. Ms. Drayton, who else was in that -- can you  
22 describe for us who was in that video, please.

23 A. That was me and Cassandra Bettler.

24 Q. And who was speaking with Judge Tidd during  
25 that time?

1           A.       Cassandra Bettler.

2           Q.       And when Judge Tidd said -- pointed and said,  
3 pull it off of there, do you know what he was referring  
4 to?

5           A.       I assume that he was referring to the tape  
6 that will -- or the security camera that rolls in the  
7 office that you got the -- you know, that shows in the  
8 different parts of the office, the cameras.

9           Q.       And that was on that same day, February 19th,  
10 2016?

11          A.       Correct.

12          Q.       Now, you previously stated that you only  
13 learned of problems at the court when you were there for  
14 a few months.

15          A.       Correct.

16          Q.       So was it after primary election day that you  
17 learned of it?

18          A.       Yeah, a little after. I think -- I don't  
19 remember the exact time frame. After the -- what  
20 happened on the primary election day, Brenda Anthony had  
21 just briefly mentioned to me that there were some issues  
22 going on involving Judge Tidd. I didn't ask any  
23 questions because it didn't really -- nothing really  
24 probably involved me. I was new. So I didn't really  
25 ask, and, you know, I didn't really want any details of

1 what it was. She just informed me, and I left it at  
2 that. I didn't question anything else.

3 Q. Were you aware that clerks were taking notes  
4 on conduct going on at Judge Tidd's court?

5 A. No.

6 Q. So you had no occasion to participate in  
7 contributing to the logs that you may have heard of?

8 A. Correct, I did not.

9 Q. And can you describe Judge Tidd's demeanor or  
10 attitude after -- well, after this tape, this  
11 February 19, 2016 date, did his conduct change?

12 A. Yeah. He was rather quiet most days when we  
13 would come in. He didn't usually speak to us in the  
14 morning. We got a good morning maybe, and that was  
15 about it. He did speak to us if it was work related.  
16 But anything other than that he did not speak to us.

17 Q. Do you believe Judge Tidd treated you in a  
18 respectful manner?

19 A. At times, no.

20 Q. Did he treat Cassie in a respectful manner?

21 A. Also at times, no.

22 Q. During that primary election season, did  
23 Judge Tidd ever talk about whether he would return to  
24 his judicial office after the election?

25 MR. STRETTON: Objection.

1 THE WITNESS: I don't remember hearing  
2 anything like that, no.

3 JUDGE BARTON: What's the basis for your  
4 objection?

5 MR. STRETTON: It has nothing to do with  
6 this case.

7 JUDGE BARTON: Counsel, how is this  
8 relevant?

9 MS. FLAHERTY: It's withdrawn.

10 JUDGE BARTON: Please proceed.

11 MS. FLAHERTY: I'm moving to the section  
12 on special consideration which begins at Page 25.

13 BY MS. FLAHERTY:

14 Q. Tracie, did you ever hear Judge Tidd tell  
15 clerks not to issue warrants to Attorney Burke?

16 A. To me that happened only because there was --  
17 at the time I was handling issuing the warrants and  
18 Attorney Burke's citation came up on the warrant list,  
19 and I mentioned it to Judge Tidd that Attorney Burke was  
20 due for a warrant that day. I believe he advised us to  
21 give him a call to let him know, and I said, well, I'd  
22 like him to get in here today before 3:00 or the  
23 warrant's going to be issued. And Attorney Burke came  
24 in that day and paid his citation.

25 Q. Do you know if Judge Tidd is the one who



1 called him to tell him to come in to pay it?

2 A. Honestly I do not remember.

3 Q. Do you know if Judge Tidd told other clerks  
4 to hold warrants back from Attorney Burke?

5 A. While I was working there, I don't have any  
6 recollection of that. If it happened prior to me  
7 starting there, I wouldn't know.

8 Q. So the one instance where you told Judge Tidd  
9 that a warrant was going to issue, what prompted you to  
10 tell him that?

11 A. 'Cause Attorney Burke had numerous tickets in  
12 our office and -- for parking tickets, and it had been  
13 mentioned just in conversation to me or through just  
14 with all of us that Attorney Burke was habitual in our  
15 office with getting traffic tickets.

16 Q. Did you hear from other clerks that there was  
17 a policy in your court that you were to hold back --

18 A. No. That was never told that there was a  
19 policy. I just brought it to his attention saying, hey,  
20 Attorney Burke has this ticket, he really -- you know,  
21 he's getting a warrant, he really needs to get in here  
22 to pay it or he's getting the warrant.

23 MS. FLAHERTY: We're turning to Section  
24 F, Failure to Accord Full Right to be Heard.

25 BY MS. FLAHERTY:

1 Q. During your time working with Judge Tidd from  
2 January 2015 through July 2016, did Judge Tidd conduct  
3 traffic summary trials, landlord/tenant hearings,  
4 preliminary arraignments, and waivers of preliminary  
5 hearings at the counter at the reception area?

6 A. Yes.

7 Q. During that same time period, did you observe  
8 Judge Tidd going into the courtroom to conduct hearings?

9 A. No, not really.

10 Q. If a defendant specifically requested to  
11 conduct a summary trial in the courtroom, did Judge Tidd  
12 accommodate that?

13 A. Yes.

14 Q. From your observations when a defendant  
15 arrived at Judge Tidd's court for a scheduled traffic  
16 summary trial, did Judge Tidd routinely encourage a plea  
17 agreement at the counter?

18 A. I never really heard that myself. I used to  
19 sit in the back until I moved to the front. And if I  
20 was engaged in doing my work, I honestly didn't really  
21 pay much attention to what was going on at the counter  
22 unless I was helping someone if they came in to pay a  
23 citation or, you know, just helping somebody if they  
24 stopped in with questions.

25 Q. Did Judge Tidd ever ask you to personally

1 handle matters at the counter in his absence?

2 A. No.

3 Q. And did you observe Judge Tidd conducting  
4 preliminary --

5 MS. FLAHERTY: This is at Paragraph 129.

6 BY MS. FLAHERTY:

7 Q. Did you observe Judge Tidd conducting  
8 preliminary arraignments at the counter?

9 A. Not usually because if they were brought in a  
10 lot of times if an officer brought them -- a person in  
11 for arraignment usually they were turning themselves in  
12 on a criminal case or it was done over the  
13 videoconference. So that could have been handled in the  
14 courtroom or it was handled in his office where the  
15 Polycom is, so not usually. I mean, preliminary  
16 hearings are one thing. Arraignments are different. So  
17 did you mean an arraignment or actually a preliminary  
18 hearing?

19 Q. Well, fine to go ahead and discuss the  
20 arraignments. I can backtrack, and let me get  
21 specifically to the language of the complaint. During  
22 the time that you worked for Judge Tidd, did you observe  
23 him conducting preliminary arraignments at the counter?

24 A. No.

25 Q. Did you observe him conducting waivers of

1 preliminary hearings at the counter?

2 A. Yes.

3 Q. Now, you've testified that you observed Judge  
4 Tidd conducting various proceedings at the counter prior  
5 to his receipt of the February 19th -- prior to  
6 February 19, 2016 when he received the letter from the  
7 Board, correct?

8 A. Yes.

9 Q. And then did he continue to conduct hearings  
10 at the counter, or did that change after that time?

11 A. That changed. He started doing everything in  
12 the courtroom.

13 Q. And did he wear his robe?

14 A. Yes.

15 Q. Can you tell the Court how Judge Tidd would  
16 transport his robe into the courtroom?

17 A. He would just go into his office and carry it  
18 into the courtroom and leave it in there waiting until  
19 the hearings would start because usually he was in the  
20 office before we were. So prior to the hearings  
21 starting which were either 8:45 or 9:00 a.m., he would  
22 just carry it from his office where it hung on the back  
23 of the door into the courtroom.

24 Q. Did he ever carry that robe into the  
25 courtroom in a ceremonial manner?

1           A.       One time I observed him carrying it he had  
2 his hands up, and he just kind of carried it across  
3 through the office into the courtroom.

4           Q.       Was it in a joking manner?

5           A.       I don't know because there were times -- like  
6 I said, he didn't normally speak to us, so nobody --  
7 nothing was really being said.

8                    JUDGE BARTON:  Anything further of this  
9 witness?

10                   MS. FLAHERTY:  I'm done with direct.

11                   JUDGE BARTON:  Mr. Stretton, do you have  
12 any questions of this witness?

13                   MR. STRETTON:  I do.  Thank you.

14                   JUDGE BARTON:  Please proceed.

15                                CROSS-EXAMINATION

16 BY MR. STRETTON:

17           Q.       Now, good evening, ma'am.

18           A.       Hello.

19           Q.       Let me make sure I understand.  You got along  
20 okay with Judge Tidd.  Am I right?

21           A.       Yes, overall I would say yes.  From the time  
22 I started I really didn't have any problems with him  
23 other than the minor incidences that were discussed  
24 today.

25           Q.       But, I mean, overall you and he had a good

1 working relationship?

2 A. Yes. I had no problems. He never complained  
3 about my work or anything like that, no.

4 Q. And prior to February of 2016, he would often  
5 sit out in the area where you and your colleagues sat.  
6 Am I correct?

7 A. Correct.

8 Q. And at times he would banter back and forth  
9 with you and others?

10 A. I'm sure there were times, yes.

11 Q. And would he banter back and forth with  
12 Ms. Anthony?

13 A. Well, when Brenda was in the office, there  
14 were four of us so there really wasn't an open desk to  
15 sit in the -- you know, where our little hub is there.  
16 We could have had banter. To be honest with you, I  
17 don't remember.

18 Q. At times he would almost kid with you. Am I  
19 correct?

20 A. Probably yes, sometimes.

21 Q. The birthday cake when he used the B word  
22 that you referenced a few minutes ago, that might have  
23 been like a joke, you know, why are you being a B?

24 A. Right. But I took it to the point where if  
25 he's my boss he shouldn't be speaking to me that way

1 even if it is in a joke. And I honestly didn't take it  
2 that way because that's not how it came across.

3 Q. I understand. But it could have been from  
4 his perspective?

5 A. Possibly, yes.

6 Q. And he never -- beside the two or three times  
7 you mentioned the B word, he never cursed at you or  
8 anything, did he?

9 A. No.

10 Q. And he did not curse on a regular basis in  
11 the outer area. Am I right?

12 A. Not generally, no, I mean, unless like you  
13 said if it was banter. I mean, I can't remember  
14 specific, you know, times.

15 Q. I was just looking at this statement you made  
16 in 2016, and there's no reference to him using the F  
17 word to people or yelling or screaming or cursing at  
18 them on a regular basis in your statements, is there?

19 A. No. I mean, it did happen. It wasn't, you  
20 know, daily. I mean, it shouldn't probably have  
21 happened at all, but it did, so.

22 Q. I mean, it was very infrequent. Am I  
23 correct?

24 A. Yes. But it still happened.

25 Q. But you never referenced that in your

1 statement?

2 A. No. I mean, that -- that was a specific  
3 question regarding me, so I just was only discussing  
4 myself.

5 (Exhibit Number R-19 marked for  
6 identification)

7 BY MR. STRETTON:

8 Q. I just want you to look at this. I marked it  
9 for identification purposes as R-19. It's a summary of  
10 your statement by former investigator, Sean Brennan.

11 MR. STRETTON: And if I could approach  
12 the witness with the Court's permission.

13 JUDGE BARTON: Certainly.

14 BY MR. STRETTON:

15 Q. I'm putting on your desk a summary of a  
16 statement you made to Mr. Brennan. Have you seen this  
17 statement before, Ms. Drayton?

18 A. Yes.

19 Q. In that statement just to sort of fast  
20 forward a little, the last paragraph on the first page  
21 and the top of the second page is where the B word was  
22 referenced. Am I correct?

23 A. Yes.

24 Q. In the first page, the third paragraph is the  
25 election day thing which we already saw live on the



1 video a few minutes ago. Am I correct?

2 A. Correct.

3 Q. On the second page you reference at times  
4 former Judge Tidd would raise his voice. That's the  
5 first full paragraph. Do you see that on the second  
6 page?

7 A. Yes.

8 Q. And you were asked about him making deals at  
9 the counter, and you said you hadn't noticed that. Am I  
10 right?

11 A. Yes.

12 Q. Is that true?

13 A. Wait, I'm sorry, I was reading. I'm sorry,  
14 can you ask me the question again.

15 Q. I'm sorry.

16 A. That's okay, I just was reading.

17 Q. That's my fault. I should have made sure you  
18 were looking at me. On the second full paragraph but  
19 the third paragraph on the second page it says,  
20 Drayton -- I'm just quoting. Remember this is a  
21 summary, it's not verbatim. You have to tell me if it's  
22 accurate or inaccurate -- hasn't noticed if Tidd made  
23 any deals at the counter. She always sees him talking  
24 to the cops and defendants together. Is that correct?

25 A. Yes.

1 Q. And during the time you were there, former  
2 Judge Tidd would get there pretty early in the morning.  
3 Am I right?

4 A. Usually. He was there before we got there at  
5 8:30.

6 Q. And then he would stay until sometime in the  
7 afternoon when the business of the court was pretty much  
8 concluded?

9 A. Usually our hearings never went past  
10 12:00 noon.

11 Q. And at some point in the afternoon he would  
12 leave to go to his law office?

13 A. He would leave as soon as the last hearing  
14 was over.

15 Q. And then he would come back if there was a  
16 need to?

17 A. If we needed him, correct.

18 Q. And in those days his law office was about a  
19 mile or so away from the courthouse?

20 A. His office was in Hellertown which is  
21 probably 5 to 6 miles from our office because I also  
22 live in Hellertown, and I make the drive every day.

23 Q. So it would be about 10-15 minutes away?

24 A. Correct.

25 Q. And according to you, when he went in the

1 courtroom, he always wore his robe. Am I right?

2 A. That's what I said here, yeah.

3 Q. So what's your recollection?

4 A. There were times I can say that he didn't  
5 have it on, and maybe at times he did. I -- this was  
6 from last year.

7 Q. You said here on the third paragraph on the  
8 bottom second page, when Tidd, I'm just quoting, goes  
9 into his courtroom for a hearing, she said he always  
10 wears his robe. Am I right?

11 A. That's what I said.

12 Q. Now, you were there the day he came in when  
13 he was upset about information being leaked. Am I  
14 correct?

15 A. The day in question that he locked us in the  
16 office?

17 Q. Yes.

18 A. Yes, I was there.

19 Q. But, I mean, he locked the office door in the  
20 front so people couldn't come in from the outside?

21 A. Correct.

22 Q. But there were other doors that people could  
23 leave?

24 A. Well, we could have left. The only other  
25 door, like I said, was behind my desk which was the

1 emergency exit.

2 Q. But anyone could have walked out there at any  
3 time?

4 A. Yes.

5 Q. He didn't just tell you to -- you couldn't  
6 leave. He locked it so he could talk to everyone with  
7 some privacy?

8 A. Correct. I mean, he didn't tell us we  
9 couldn't leave. But I was -- if we would have been  
10 continued to be there any longer, I was personally going  
11 to leave because that was not correct to be locked in  
12 the office.

13 Q. Well, he wasn't locking you in. He wanted to  
14 talk to you in private. Wouldn't that be a better way  
15 of saying it?

16 A. Either way it was wrong to be locked in the  
17 office. I've never worked for anyone who's locked me in  
18 an office to talk to me privately.

19 Q. In any event, you were aware that certainly  
20 he was running for reelection back on May 19th of 2015?

21 A. Yes.

22 Q. And you can certainly understand why he'd be  
23 a little perturbed if he got -- had been called in to  
24 come to hearings which he didn't expect?

25 A. Possibly.

1           Q.     You later found out that Brenda Anthony was  
2 friends with his opponent and speaking to his opponent.  
3 Am I right?

4           A.     I know nothing about that. I don't even know  
5 who his opponent was. I could never even identify him  
6 for you if you asked me.

7           Q.     Now, after February of 2016, after that,  
8 Judge Tidd always stayed in either his office or the  
9 courtroom. Am I correct?

10          A.     Or he sat at the computer that's in our  
11 office that has the internet which is still, you know,  
12 in the office area.

13          Q.     And during that time period from February  
14 forward, everything was done in the courtroom, no  
15 counter work anymore. Am I correct?

16          A.     Correct.

17          Q.     From that time forward, there was no bad  
18 words or anything between him and you or anyone in the  
19 staff?

20          A.     No. Like I said, he didn't really speak to  
21 us anymore. The only time he spoke to us is if it was  
22 work related pertaining to a case or a hearing.

23          Q.     In essence, though, you didn't see him  
24 ranting, raving, screaming on a regular basis during  
25 your tenure there?

1 A. No, just on the instances that we watched.

2 Q. Two instances we saw?

3 A. Right, and then also when he came in and  
4 locked us in the office.

5 MR. STRETTON: Thank you very much.

6 JUDGE BARTON: Redirect?

7 MS. FLAHERTY: Just briefly if I may.

8 REDIRECT EXAMINATION

9 BY MS. FLAHERTY:

10 Q. Ms. Drayton, the interview that you had by  
11 our investigator, Sean Brennan, was in February of 2016,  
12 correct?

13 A. Yes. That's the date that's on here. It  
14 says 2/12/2016.

15 Q. And Mr. Stretton read to you from Paragraph 3  
16 that you hadn't noticed if Judge Tidd makes any deals at  
17 the counter.

18 A. Correct.

19 Q. If you could review the rest of that  
20 paragraph, please.

21 A. Okay.

22 Q. When we first talked, I asked you about your  
23 work style, and you said that you're very focused on  
24 your work. And here in this interview did you expand on  
25 that more when you were speaking with Mr. Brennan

1 whether or not you were paying attention to what the  
2 judge was doing?

3 A. No. And that's just how I work. When I get  
4 involved in what I'm doing in the morning, if it doesn't  
5 really involve me and if there were people at the  
6 counter and it didn't involve me specifically, I  
7 honestly don't pay much attention to it. Unfortunately  
8 I'm still like that today. I just kind of get into my  
9 work, and that's how I work. I just get focused and  
10 just want to do my job.

11 MS. FLAHERTY: Thank you.

12 MR. STRETTON: I have nothing further.

13 JUDGE BARTON: Thank you for your  
14 testimony, Ms. Drayton. You may step down, and you are  
15 free to leave.

16 (Discussion off the record held at  
17 sidebar)

18 DANIEL BENCSICS, called as a witness,  
19 having been duly sworn, testified as follows:

20 DIRECT EXAMINATION

21 BY MS. NORTON:

22 Q. Would you tell the Court your name, please.

23 A. Daniel Bencsics.

24 Q. And where are you employed?

25 A. Employed by the Upper Saucon Township Police

1 Department.

2 Q. And how long have you been employed there?

3 A. Approximately a year and a half.

4 Q. Where were you employed before that?

5 A. Lower Saucon Township Police Department.

6 Q. And as a police officer currently in Upper  
7 Saucon, do you work out of what was Judge Tidd's  
8 courtroom?

9 A. Currently, no.

10 Q. Prior to that when you were employed at Lower  
11 Saucon, did you occasionally work -- or have cases filed  
12 in Judge Tidd's courtroom?

13 A. Yes.

14 Q. And what time period would that have been?

15 A. Approximately 2013 to 2015.

16 Q. Would that have included a period of time  
17 around about May 19th of 2015?

18 A. Yes.

19 Q. All right. So let me ask you, do you recall  
20 the name Joseph Melhem?

21 A. Yes.

22 Q. Why do you recall that name?

23 A. I recall it from a traffic citation.

24 Q. And do you recall did you have to go to court  
25 on that matter?



1 A. Yes.

2 Q. Do you happen to remember what the traffic  
3 citation was for?

4 A. I believe it was a stop sign violation.

5 Q. Do you remember the date that you went to  
6 court on that citation?

7 A. Off the top of my head, I don't remember the  
8 exact date, no.

9 Q. If you could recall, when you went to court  
10 on that date, did anything -- whatever date that may  
11 have been on Joseph Melhem, did anything happen unusual  
12 in court that day?

13 A. I remember that day being an election day.

14 Q. Would it have been primary election day or  
15 general election?

16 A. I have no clue.

17 Q. Well, you don't play in politics at all, do  
18 you?

19 A. No.

20 Q. If I told you primary election is generally  
21 in the spring and general election is in the fall, which  
22 one would it have been?

23 A. It would be the primary.

24 Q. So it was primary election day. What year?

25 A. 2015.

1 Q. And what do you recall happening?

2 A. I remember waiting in the lobby area of the  
3 courthouse and then overhearing the girls calling the  
4 judge and wondering where he was at the time.

5 Q. Let me ask you, what courthouse are you  
6 talking about?

7 A. Judge Tidd's courtroom.

8 Q. And you were waiting where in his court  
9 building?

10 A. I guess you would consider it the lobby area  
11 when you first walk into the front door.

12 Q. All right, thank you. And you said you could  
13 hear someone speaking on the phone? Is that what you  
14 said?

15 A. Yeah, if I remember, I think a phone call. I  
16 don't remember exact words, or.

17 Q. Did you get a gist of what the phone call was  
18 about?

19 A. Not at the time, no.

20 Q. So at some point in time did you see Judge  
21 Tidd that day?

22 A. Yes.

23 Q. And can you explain to the Court what  
24 happened when you saw Judge Tidd?

25 A. A couple minutes after I arrived I remember

1 him coming into the courtroom -- courthouse and being  
2 upset.

3 Q. What was he upset about?

4 A. From what I remember having hearings  
5 scheduled on the election day.

6 Q. How did he express that?

7 A. I don't know how -- how to respond to that  
8 exactly. He seemed upset about it.

9 Q. What was it he was doing that made you think  
10 he was upset?

11 A. Just the tone of his voice.

12 Q. Did he address you at all when he first came  
13 in?

14 A. I don't remember off the top of my head,  
15 probably not I don't think.

16 Q. What did you see him do after he expressed  
17 that he was upset about having hearings that day?

18 A. What was the question?

19 Q. What did he do after he expressed that he was  
20 upset about having hearings that day?

21 A. I remember him having the hearing continued.

22 Q. And how did he tell you that?

23 A. He said that the court administration -- it  
24 was continued per court administration.

25 Q. And then what happened?

1           A.     And then I can recall observing Attorney  
2 Minotti come in the parking lot. I recognized him.

3           Q.     Well, after you heard Judge Tidd say  
4 everything was continued, why didn't you just leave  
5 right then?

6           A.     Because it was moments later, seconds later  
7 that I saw Attorney Minotti entering the parking lot.

8           Q.     And then did you continue -- how could you  
9 see him? Were you looking through a window or what?

10          A.     There's double glass doors.

11          Q.     And you were looking through that door?

12          A.     Yes.

13          Q.     What did you see happen out in the parking  
14 lot?

15          A.     The judge left the courtroom and spoke with  
16 Attorney Minotti at his car.

17          Q.     Out in the parking lot?

18          A.     Yes.

19          Q.     Could you hear what they were saying?

20          A.     No.

21          Q.     Were you made to be part of that  
22 conversation? Did they invite you out?

23          A.     No.

24          Q.     Did anyone come back into the courtroom -- I  
25 should say court building?

1           A.     The judge and Attorney Minotti and Mr. Melham  
2 all came back into the courtroom.

3           Q.     What happened then?

4           A.     Then Attorney Minotti and I, I guess, agreed  
5 to amend the citation.

6           Q.     Well, did it go in that order?

7           A.     I don't know because I don't remember the  
8 exact order of it going, but.

9           Q.     What kind of negotiation did you embark upon?

10          A.     I remember Attorney Minotti asked me about  
11 3111, and I said yes.

12          Q.     So what did he say to you, how many words?

13          A.     I think it was how about 3111 or 3111. It  
14 was short, brief.

15          Q.     It was very brief. Why was it so brief?

16          A.     That I don't know why.

17          Q.     How was Judge Tidd behaving when he had come  
18 back in with Attorney Minotti?

19          A.     He was still upset.

20          Q.     Now, do you recall did Judge Tidd make any  
21 comments about his knowledge of the case when he came  
22 back in?

23          A.     No, I don't believe so.

24          Q.     You can't recall that?

25          A.     No.

1 MS. NORTON: I guess, Your Honors, I  
2 would ask to play a portion of the video to refresh his  
3 recollection on that matter.

4 MR. STRETTON: Why don't we just use the  
5 transcript?

6 JUDGE BARTON: Would the transcript work?

7 MR. STRETTON: Whatever she wishes.

8 JUDGE BARTON: If you want to play the  
9 video, that's fine. It's up to you. If you'd like to  
10 play the video as opposed to using the transcript,  
11 Mr. Stretton has said he'll defer to your good judgment.

12 MS. NORTON: I think if we can find the  
13 transcript we can use that, Your Honor.

14 JUDGE BARTON: I think it was at 12-B.

15 MS. NORTON: May I approach the witness?

16 JUDGE BARTON: You may.

17 MS. NORTON: I'm going to hand the  
18 witness I believe it's Exhibit 12-B. I'm actually just  
19 going to focus his attention on the last two pages. If  
20 you would like to take a minute and just read through  
21 that.

22 JUDGE BARTON: Officer Bencsics, as a  
23 preliminary matter, the Court would indicate that the  
24 events inside the court facility were captured on audio  
25 and video, and as a result of the audiotape of these

1 events, that transcription was prepared that you've been  
2 shown. To refresh your recollection of those events,  
3 you can go ahead and take a look at it if you would,  
4 sir.

5 THE WITNESS: Okay, thank you. Just this  
6 last page?

7 MS. NORTON: Yes. Are you done?

8 THE WITNESS: Yes.

9 BY MS. NORTON:

10 Q. Does that help you to remember if Judge Tidd  
11 expressed any knowledge about the citation?

12 A. Yes, it helps. He had no knowledge.

13 Q. He said he had no knowledge?

14 A. Yes.

15 Q. And did you fill him in? Did you give him  
16 any of the facts behind the citation?

17 A. No.

18 Q. And yet the defendant went ahead and entered  
19 a guilty plea?

20 A. Yes.

21 Q. To something different than what you had  
22 cited him for?

23 A. Yes. The citation was amended.

24 Q. And you weren't asked to state the facts or a  
25 basis for the guilty plea, were you?

1 A. No.

2 Q. Did you notice or do you recall, excuse me,  
3 that when Judge Tidd entered with Attorney Minotti he  
4 said -- he pointed to you and do you recall what he  
5 said?

6 A. There's your officer.

7 Q. And then what?

8 A. Do it.

9 Q. Do it how?

10 A. Now.

11 Q. Is that how you would typically negotiate a  
12 plea?

13 A. No.

14 MR. STRETTON: Objection. I don't know  
15 about her, but I can tell you there's no typical way,  
16 see an officer and negotiate. Sometimes they're  
17 talkative. Sometimes they just take it or leave it.

18 JUDGE BARTON: Sustained.

19 MS. NORTON: If I may speak to that  
20 objection.

21 JUDGE BARTON: You may.

22 MS. NORTON: I think that it's not about  
23 what we believe is typical, it's about what the officer  
24 believes is typical, so my question is what -- is that  
25 typical for him in how he negotiates a plea. He may



1 have a particular way. And I would also say to the  
2 Court that it simply -- well, I'll strike that. I just  
3 think that it's about him.

4 JUDGE BARTON: It may be typical or  
5 atypical for this officer. I don't know that that's  
6 particularly relevant. And of course the Court has seen  
7 the video and the transcript. I'll sustain the  
8 objection.

9 MS. NORTON: I'll let it go. Thank you,  
10 Your Honor.

11 BY MS. NORTON:

12 Q. Is there another location in that court  
13 building where you can negotiate a guilty plea?

14 A. Yes.

15 Q. And have you used another location to  
16 negotiate guilty pleas?

17 A. Yes.

18 Q. But on that occasion you didn't. Why is  
19 that?

20 MR. STRETTON: Objection.

21 THE WITNESS: I'm not sure exactly why.

22 BY MS. NORTON:

23 Q. Excuse me?

24 A. I don't know exactly why.

25 Q. All right, fair enough.

1 MS. NORTON: I have no further questions,  
2 Your Honor.

3 JUDGE BARTON: Questions, Mr. Stretton?

4 MR. STRETTON: I have none. Thank you.

5 JUDGE BARTON: Thank you for your  
6 testimony, Officer Bencsics. You are free to go. This  
7 court is in recess.

8 (The proceedings adjourned at 5:31 p.m.)  
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## CERTIFICATION

I hereby certify that the proceedings and evidence are contained fully and accurately in. The notes taken by me on the within proceedings, and that this copy is a correct transcript of the same.

Dated in York, Pennsylvania this 2nd day of February, 2017.

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Bethann M. Mulay, Notary Public  
Registered Professional Reporter

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