

**COMMONWEALTH OF PENNSYLVANIA
COURT OF JUDICIAL DISCIPLINE**

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COURT OF
JUDICIAL DISCIPLINE
OF PENNSYLVANIA

2015 APR 14 P 2:49

IN RE:

Michael J. Sullivan
Judge
Philadelphia Traffic Court
Philadelphia County

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_____ JD 2015
.....

IMPORTANT NOTICE

TO: MICHAEL J. SULLIVAN

You are hereby notified that the Pennsylvania Judicial Conduct Board determined that there is probable cause to file formal charges against you for conduct proscribed by Article V, §§17(b) and 18(d)(1) of the Constitution of the Commonwealth of Pennsylvania and Rules 2, 4, 8, and 13 of the Rules Governing Standards of Conduct of Magisterial District Judges. The Board's counsel will present the case in support of the charges before the Pennsylvania Court of Judicial Discipline.

You have an absolute right to be represented by a lawyer in all proceedings before the Court of Judicial Discipline. Your attorney should file an entry of appearance with the Court of Judicial Discipline in accordance with C.J.D.R.P. No. 110.

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

You are further hereby notified that within 30 days after the service of this Complaint, if no omnibus motion is filed, or within 20 days after the

dismissal of all or part of the omnibus motion, you may file an Answer admitting or denying the allegations contained in this Complaint in accordance with C.J.D.R.P. No. 413. Failure to file an Answer shall be deemed a denial of all factual allegations in the Complaint.

COMPLAINT

AND NOW, this 14th day of April, 2015, comes the Judicial Conduct Board of the Commonwealth of Pennsylvania (Board) and files this Board Complaint against the Honorable Michael J. Sullivan, Judge of the Philadelphia Traffic Court, Philadelphia County. The Board alleges that Judge Sullivan violated the Constitution of the Commonwealth of Pennsylvania, Article V, §§ 17(b) and 18(d)(1), and the Rules Governing Standards of Conduct of Magisterial District Judges by virtue of his conduct, delineated specifically as follows:

1. Article V, § 18 of the Constitution of the Commonwealth of Pennsylvania grants to the Board the authority to determine whether there is probable cause to file formal charges against a judicial officer in this Court and, thereafter, to prosecute the case in support of such charges before this Court.
2. From approximately January 2, 2006, until the present, Judge Sullivan served as a judge of the Philadelphia Traffic Court (PTC).
 - a. Judge Sullivan has been suspended without pay from serving as a PTC judge since February 1, 2013, until the present.
3. Judge Sullivan served as Administrative Judge of the PTC from April 27, 2011, until December 19, 2011.
4. By Per Curiam Order dated December 19, 2011, the Supreme Court of Pennsylvania relieved Judge Sullivan of his assignment as Administrative Judge of the PTC.
5. As a PTC judge, Judge Sullivan is, and was at all times relevant hereto, subject to all the duties and responsibilities imposed on him by the Constitution of the Commonwealth of Pennsylvania and the Rules Governing Standards of Conduct of Magisterial District Judges, by virtue of Rule 18 of those Rules.

PART I.

6. At ***United States v. Sullivan, et al***, 2:13-cr-00039-RK, Judge Sullivan was accused of violating federal mail and wire statutes by his practice of receiving *ex parte* requests for, making *ex parte* requests for, and granting favorable treatment for Traffic Court defendants on the basis of *ex parte* requests.
 - a. This process of the granting and *ex parte* requesting of favorable treatment became known or referred to as "special consideration."
 - b. Following trial Judge Sullivan was found "not guilty" of violating federal criminal statutes by his conduct in receiving and granting requests for "special consideration."
7. The federal government called a number of witnesses during the criminal trial who testified about instances where Judge Sullivan received *ex parte* information from litigants regarding Traffic Court cases that were ultimately assigned to Judge Sullivan before he adjudicated the cases favorably for the litigants in question.
8. The federal government called a number of witnesses during the criminal trial who testified about instances where Judge Sullivan requested *ex parte* favorable treatment for certain defendants in cases before another PTC judge.
9. Despite his acquittal at the federal criminal trial, the Board's investigation of several of the matters presented at the federal criminal trial indicates that Judge Sullivan's conduct in those matters violates the Constitution and the Rules Governing Standards of Conduct of Magisterial District Judges applicable to PTC judges.

10. As a result of its investigation, the Board concluded that there was probable cause to file formal charges in this Court against Judge Sullivan for the conduct set forth as follows:

**Commonwealth v. Michael Ambron and Commonwealth v. Brightline
Construction, Inc.:**

11. In May 2011, Michael Ambron (Ambron) was employed as a driver for Brightline Construction, Inc. (Brightline).
12. Brightline is owned by William Arnold (Arnold).
13. Judge Sullivan knew Arnold personally.
14. Arnold knew Judge Sullivan's cell phone number in May 2011.
15. While driving a Brightline truck towing an excavator, Ambron got stuck under Hunting Park Bridge in the City of Philadelphia on May 12, 2011.
16. Ambron was issued two citations stemming from the bridge accident
17. Brightline was issued one citation for an invalid inspection stemming from the bridge accident.
18. On May 12, 2011, at 8:32 a.m., Arnold called Judge Sullivan on his cell phone.
19. Arnold related the details of the accident to Judge Sullivan.
20. After receiving the information about the accident, Judge Sullivan gave instructions to Arnold as to where he should go in Traffic Court to get his truck out of impoundment.
21. Judge Sullivan instructed Arnold to send him a text message when Arnold arrived at Traffic Court to get the truck out of impoundment.
 - a. When Arnold arrived to get the truck out of impoundment, he spoke to Judge Sullivan about the accident.
22. The two citations issued to Ambron and the single citation issued to Brightline had all been scheduled for summary trial on July 13, 2011, at 9:00 a.m.

- a. Ambron and Brightline pleaded not guilty; therefore, the trials went forward as scheduled.
23. Arnold called Judge Sullivan on May 13, 2011, to schedule a lunch get-together; Judge Sullivan was unavailable.
24. Arnold called Judge Sullivan on July 5, 2011, to schedule a lunch get-together; Judge Sullivan was unavailable.
25. Arnold, as representative of Brightline, and Ambron appeared in Judge Sullivan's courtroom for trial on the citations on July 13, 2011.
26. Although Judge Sullivan had spoken with Arnold about the citations issued to Brightline and to Ambron, Judge Sullivan did not recuse himself from conducting trial on any of the citations.
27. Although Judge Sullivan had spoken with Arnold about the citations issued to Brightline and Ambron, he did not disclose this fact in open court prior to conducting trial on these citations.
28. Judge Sullivan found both Ambron and Brightline not guilty of the citations issued to them.

Commonwealth v. David Callsen, Jr.:

29. In 2009, David Callsen, Jr. (Callsen), was employed as bartender at the Fireside Tavern.
30. The Fireside Tavern is an establishment owned by Judge Sullivan's family that is located at Sixth Street and Oregon Avenue in the City of Philadelphia.
31. Callsen was cited for disregarding a red light on May 18, 2009, near the location of the Fireside Tavern.
32. Callsen discussed the details of the citation with Judge Sullivan.
33. According to the citation, summary trial was scheduled for July 20, 2009, at

10:30 a.m.

34. Callsen pleaded not guilty to the citation, and he appeared for trial on July 20, 2009.
35. Judge Sullivan presided over Callsen's summary trial.
36. Callsen provided the same details to Judge Sullivan at trial regarding his citation as he had prior to trial.
37. Judge Sullivan did not reveal to anyone at trial in open court that he had discussed Callsen's citation with him prior to trial.
38. Judge Sullivan did not reveal to anyone at trial in open court that Callsen was employed by your family's establishment.
39. Judge Sullivan found Callsen not guilty of the citation on July 20, 2009.

Former Senior Magisterial District Judge Kenneth Miller:

40. Former senior Magisterial District Judge Kenneth Miller was a Delaware County magisterial district judge who, following his retirement, was assigned to preside over cases in Traffic Court.
41. Former senior MDJ Miller pleaded guilty to one count of mail fraud resulting from his participation in the "special consideration" process in Traffic Court.
42. Former senior MDJ Miller testified against Judge Sullivan and his co-defendants at the federal criminal trial.
43. Danielle Czerniakowski (Czerniakowski), Judge Sullivan's "personal," went to former senior MDJ Miller on several occasions and provided him with pieces of paper with names of individuals appearing before him in Traffic Court cases.
44. The persons whose names were on the pieces of paper provided by Czerniakowski received special treatment in former senior MDJ Miller's courtroom.

45. On one particular day, Danielle Czerniakowski brought him the names of five persons who were to appear before former senior MDJ Miller that day.
- a. Former senior MDJ Miller understood the names on the pieces of paper to be requests from Judge Sullivan to him for "special consideration" for those persons.
 - b. These cases were ultimately either dismissed or withdrawn with former senior MDJ Miller's approval.
46. Later that same day at lunch, Judge Sullivan had a conversation with former senior MDJ Miller regarding the five names Czerniakowski provided to him.
47. Judge Sullivan said to former senior MDJ Miller "I hit you pretty hard this morning, didn't I?" in reference to the five requests for "special consideration."

PART II. CHARGES

COUNT 1 (A-C)

48. By virtue of some or all of the facts set forth at Part I regarding the ***Ambron/Brightline*** (Count 1(A)), ***Callsen*** (Count 1(B)), and ***senior MDJ Miller*** (Count 1(C)) matters, Judge Sullivan violated Rule 2 of the Rules Governing Standards of Conduct of Magisterial District Judges and is therefore subject to discipline pursuant to Article V, § 18(d)(1) of the Pennsylvania Constitution.

49. Rule 2 states, in pertinent part, the following:

Rule 2: Impropriety and Appearance of Impropriety to be Avoided []

- A. Magisterial district judges shall respect and comply with the law and shall conduct themselves at all times in a manner that promotes public confidence in the

integrity and impartiality of the judiciary. Magisterial district judges shall not allow their family, social, or other relationships to influence their judicial conduct or judgment. They shall not lend the prestige of their office to advance the private interest of others, nor shall they convey or permit others to convey the impression that they are in a special position to influence the judge.

50. By virtue of Rule 2(A), Judge Sullivan has the responsibility to comply with the law and to conduct himself in a manner that promotes public confidence in the judiciary's integrity and impartiality and not to be influenced in his judicial conduct and judgment by his personal relationships.
51. By allowing litigants to provide him *ex parte* facts regarding a pending or impending proceeding, participating in the requesting of, receiving requests for, and the granting of "special consideration" as described above at Part I, Judge Sullivan failed to respect and comply with the law.
52. By allowing litigants to provide him *ex parte* facts regarding a pending or impending proceeding, participating in the requesting of, receiving requests for, and the granting of "special consideration" as described above at Part I, Judge Sullivan did not conduct himself in a manner that promotes public confidence in the judiciary.
53. By allowing litigants to provide him *ex parte* facts regarding a pending or impending proceeding, participating in the requesting of, receiving requests for, and the granting of "special consideration" as described above at Part I, Judge

Sullivan allowed his family, social, or other relationships to influence his judicial conduct and judgment.

54. By allowing litigants to provide him *ex parte* facts regarding a pending or impending proceeding, participating in the requesting of, receiving requests for, and the granting of "special consideration" as described above at Part I, Judge Sullivan lent the prestige of his office to advance the private interest of others, *i.e.*, their interest in avoiding liability under the Traffic Code, 75 Pa.C.S.A.
55. By allowing litigants to provide him *ex parte* facts regarding a pending or impending proceeding, participating in the requesting of, receiving requests for, and the granting of "special consideration" as described above at Part I, Judge Sullivan conveyed the impression to others that they were in a special position to influence him.
56. By directing Czerniakowski, his subordinate, to send *ex parte* requests for "special consideration" to Senior MDJ Miller, Judge Sullivan failed to respect and comply with the law.
57. By directing Czerniakowski, his subordinate, to send *ex parte* requests for "special consideration" to Senior MDJ Miller, Judge Sullivan used the prestige of his office to advance private interests of the five persons named in the requests.

WHEREFORE, Michael J. Sullivan, Philadelphia Traffic Court Judge, is subject to disciplinary action pursuant to the Constitution of the Commonwealth of Pennsylvania, Article V, § 18(d)(1).

COUNT 2 (A-C)

58. By virtue of some or all of the facts set forth at Part I, Judge Sullivan violated Rule 4(D) of the Rules Governing Standards of Conduct of Magisterial District

Judges and is therefore subject to discipline pursuant to Article V, § 18(d)(1) of the Pennsylvania Constitution.

59. Rule 4(D) states, in pertinent part, the following:

Rule 4: Adjudicative Responsibilities

D. Magisterial district judges shall accord to every person who is legally interested in a proceeding, or their lawyer, full right to be heard according to law and, except as provided by law, neither initiate nor consider *ex parte* or other communications concerning a pending or impending proceeding.

60. By allowing litigants in the **Ambron/Brightline** and **Callsen** to provide him *ex parte* facts regarding a pending or impending proceeding as described above at Part I, Judge Sullivan violated Rule 4(D) (Count 2(A), (B)).

61. By providing *ex parte* requests for "special consideration" to senior MDJ Miller as described above at Part I, Judge Sullivan violated Rule 4(D) (Count 2(C)).

WHEREFORE, Michael J. Sullivan, Philadelphia Traffic Court Judge, is subject to disciplinary action pursuant to the Constitution of the Commonwealth of Pennsylvania, Article V, § 18(d)(1).

COUNT 3

62. By virtue of some or all of the facts set forth at Part I, Judge Sullivan violated Rule 13 of the Rules Governing Standards of Conduct of Magisterial District Judges and is therefore subject to discipline pursuant to Article V, § 18(d)(1) of the Pennsylvania Constitution.

63. Rule 13 states, in pertinent part, the following:

Rule 13: Incompatible practices

Magisterial district judges and all employees assigned to or appointed by magisterial district judges shall not engage, directly or indirectly, in any activity or act incompatible with the expeditious, proper and impartial discharge of their duties, including, but not limited to, (1) in any activity prohibited by law[.]

64. By virtue of Rule 13, Judge Sullivan has the responsibility to ensure that he and the employees in his office refrain from any act that is incompatible with the expeditious, proper, and impartial discharge of their duties, including requiring himself and his staff to refrain from violating the law in the course of performing their duties.
65. By allowing litigants to provide him *ex parte* facts regarding a pending or impending proceeding, participating in the requesting of, receiving requests for, and the granting of "special consideration" as described above at Part I, Judge Sullivan violated Rule 13.

WHEREFORE, Michael J. Sullivan, Philadelphia Traffic Court Judge, is subject to disciplinary action pursuant to the Constitution of the Commonwealth of Pennsylvania, Article V, § 18(d)(1).

COUNT 4 (A),(B)

66. By virtue of some or all of the facts set forth at Part I regarding the ***Ambros/Brightline*** (Count 4(A)) and ***Callsen*** (Count 4(B)) matters, Judge Sullivan violated Rule 8 of the Rules Governing Standards of Conduct of Magisterial District Judges and is therefore subject to discipline pursuant to Article V, § 18(d)(1) of the Pennsylvania Constitution.

67. Rule 8 states, in pertinent part, the following:

Rule 8: Disqualification

A. Magisterial district judges shall disqualify themselves in a proceeding in which their impartiality might reasonably be questioned, including but not limited to instances where: (1) they have a personal bias or prejudice concerning a party, or personal knowledge of disputed evidentiary facts concerning the proceeding[.]

68. By virtue of Rule 8, Judge Sullivan had a duty to disqualify himself from hearing the **Ambron/Brightline** cases because Ambron provided him facts that could be in dispute at a forthcoming hearing regarding the citations issued.

69. By virtue of Rule 8, Judge Sullivan had the responsibility to recuse himself from hearing the **Callsen** case because Callsen was his family's employee.

70. By virtue of Rule 8, Judge Sullivan had the responsibility to recuse himself from hearing the **Callsen** case because Callsen provided him facts that could be in dispute at a forthcoming hearing regarding the citation issued.

COUNT 5 (A), (B), (C)

71. By virtue of some or all of the facts alleged above regarding the **Ambron/Brightline** matter (Count 5(A)), the **Callsen** matter (Count 5(B)), and the **senior MDJ Miller** matter (Count 5(C)), Judge Sullivan violated Article V, § 18(d)(1) of the Pennsylvania Constitution in that his conduct brought the judiciary into disrepute.

WHEREFORE, Michael J. Sullivan, Philadelphia Traffic Court Judge, is subject to disciplinary action pursuant to the Constitution of the Commonwealth of Pennsylvania, Article V, § 18(d)(1).

COUNT 6(A), (B)

72. By virtue of some or all of the facts alleged above regarding the ***Ambron/Brightline*** matter (Count 5(A)), the ***Callsen*** matter (Count 5(B)), and the ***senior MDJ Miller*** matter (Count 5(C)), Judge Sullivan violated Article V, § 18(d)(1) of the Pennsylvania Constitution in that his conduct prejudiced the proper administration of justice.

WHEREFORE, Michael J. Sullivan, Philadelphia Traffic Court Judge, is subject to disciplinary action pursuant to the Constitution of the Commonwealth of Pennsylvania, Article V, § 18(d)(1).

COUNT 7 (A), (B), (C), (D),

73. By virtue of some or all of the facts alleged above at Count 1 (Count 7(A)), Count 2 (Count 7(B)), Count 3 (Count 7(C)), and Count 4 (Count 7(D)), Judge Sullivan has violated Article V, § 17(b) of the Pennsylvania Constitution.
74. Article V, § 17(b) states, in pertinent part, the following:
[...]. Justices of the Peace shall be governed by rules or canons which shall be prescribed by the Supreme Court.
75. As set forth above at Counts 1-4, Judge Sullivan has violated the Rules Governing Standards of Conduct of Magisterial District Judges.
76. As set forth in Rule 18 of the Rules Governing Standards of Conduct of Magisterial District Judges, the conduct of Philadelphia Traffic Court Judges are governed by those Rules; therefore, the reference to "justices of the peace" in Article V, § 17(b) necessarily refers to Philadelphia Traffic Court Judges as well

as magisterial district judges.

77. Judge Sullivan's violations of the Rules Governing Standards of Conduct of Magisterial District Judges constitute automatic, derivative violations of Article V, § 17(b) of the Pennsylvania Constitution.

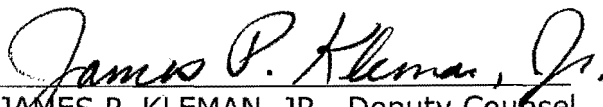
WHEREFORE, Michael J. Sullivan, Philadelphia Traffic Court Judge, is subject to disciplinary action pursuant to the Constitution of the Commonwealth of Pennsylvania, Article V, § 18(d)(1).

Respectfully submitted,

ROBERT A. GRACI, Chief Counsel

DATE: April 14, 2015

BY:


JAMES P. KLEMAN, JR. Deputy Counsel
Pa. Supreme Court ID No. 87637

Judicial Conduct Board
601 Commonwealth Avenue, Ste. 3500
P.O. Box 62525
Harrisburg, PA 17106
(717) 234-7911

**COMMONWEALTH OF PENNSYLVANIA
COURT OF JUDICIAL DISCIPLINE**

IN RE:

Michael J. Sullivan
Judge
Philadelphia Traffic Court
Philadelphia County

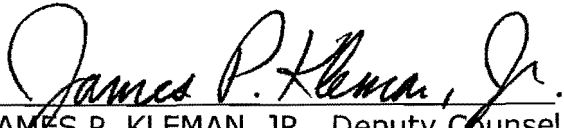
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VERIFICATION

I, James P. Kleman, Jr., Deputy Counsel to the Judicial Conduct Board, verify that the Judicial Conduct Board found probable cause to file the formal charges contained in this Board Complaint. I understand that the statements made in this Board Complaint are subject to the penalties of 18 Pa.C.S.A. § 4904, relating to unsworn falsification to authorities.

Respectfully submitted,

DATE: April 14, 2015


JAMES P. KLEMAN, JR. Deputy Counsel
Pa. Supreme Court ID No. 87637

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IN RE:

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Judge
Philadelphia Traffic Court
Philadelphia County

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: __ JD 2015
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PROOF OF SERVICE


In compliance with Rule 122(d) of the Court of Judicial Discipline Rules of Procedure, on April 14, 2015, a copy of this Board Complaint was sent by certified mail to Judge Sullivan' counsel, Samuel C. Stretton, Esquire, who agreed to accept service of this Board Complaint, at the following address:

Samuel C. Stretton, Esquire
301 South High Street
P.O. Box 3231
West Chester, PA 19381

Certified Mail No. 7161 7145 5373 0150 2020
Return Receipt Requested

Respectfully submitted,

DATE: April 14, 2015



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