

COMMONWEALTH OF PENNSYLVANIA
COURT OF JUDICIAL DISCIPLINE

IN RE: :
: :
David W. Tidd : :
Former Magisterial : 3 JD 2016
District Judge : :
Magisterial District 03-2-04 : :
Third Judicial District : :
Northampton County :

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BRIEF AND FINDINGS OF FACT OF THE RESPONDENT, DAVID W. TIDD

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III. PROCEDURAL HISTORY OF THE CASE

The Respondent, David W. Tidd, by his counsel, Samuel C. Stretton, Esquire, is filing these Findings of Fact and his Brief in support of his position that the complaint should be dismissed pursuant to Rule 502(b)(3) of the Court of Judicial Discipline. David Tidd, through Mr. Stretton, requested an extension to file these Findings of Fact and Brief. The Court of Judicial Discipline granted the extension until July 21, 2017.

A brief history of the case is in order. David Tidd, who is a member of the Bar, was elected District Judge in 2009 and began his service as a District Judge on January 1, 2010 until he resigned on January 25, 2016. He was reelected overwhelmingly in 2015 after a very contested election.

Unbeknownst to David Tidd, his secretarial staff demonstrated no loyalty to him, but reported everything he did directly to the Court Administrator's Office in Northampton County. These various secretaries kept numerous records over the six and one half years Mr. Tidd was the District Judge. These records were then ultimately given by Mr. Tidd's staff to the Judicial Conduct Board in or about 2015. Mr. Tidd originally retained Attorney Craig Simpson as his counsel. But in 2016 when the Judicial Conduct Board issued their massive formal letter of inquiry, Attorney Simpson was ill, so Mr. Tidd

retained present counsel, Samuel C. Stretton. Mr. Tidd, through Mr. Stretton, answered the complaint letter and denied all misconduct. Mr. Tidd cooperated with the Judicial Conduct Board and sat for two depositions.

Mr. Tidd's staff selectively saved and gave without permission to the Judicial Conduct Board approximately four very brief segments of video and audio tapes without the authorization of Mr. Tidd or the Court Administrator. These involved David Tidd expressing anger and concern to the staff when they were not doing their job or when they scheduled him on election day, among other matters. This selective copying of the videos were very unfair since Mr. Tidd was prevented from preserving all the tapes which would have demonstrated a very fair jurist. But, he had no opportunity to do so since when he learned during his depositions of the four preserved segments, all the other tapes were long erased and not available.

The Petition for Discipline was filed on August 26, 2016. This was a massive document containing 13 counts and 447 paragraphs. Although Mr. Tidd had fully cooperated and responded in detail to the inquiry letter, he through his counsel, made a decision not to respond to the Complaint since there was no requirement to do so under the Rules and everything was deemed at issue (see Rule 413 of the Rules of Procedure of the Court of Judicial Discipline).

Mr. Tidd, through present counsel, had filed an Omnibus Motion raising the statute of limitations and laches. The statute of limitations is four years and many of the complaints were from 2011 and 2012, beyond the statute of limitations. This was denied by the conference judge. Judge David Barton was appointed as conference judge and was the presiding judge during the trial. Judges Jeffrey Minehart and Michael Barrasse were appointed with Judge Barton to the trial panel.

Seven days of trial were held over an extended period of time. The first three days of trial were held in the Commonwealth Court in Harrisburg on Wednesday, January 18, 2017, Thursday, January 19, 2017 and Friday, January 20, 2017.

The next set of trial days were held in Philadelphia in the Superior Court on Wednesday, May 3, 2017, Thursday, May 4, 2017 and Friday, May 5, 2017. The final hearing, which was to complete the cross-examination of David Tidd, was held in Harrisburg in the Supreme Court Courtroom in the Capitol Building on June 8, 2017.

At the conclusion of the trial, Judge Barton ordered Findings of Fact and a Brief by filed by July 8, 2017. Mr. Stretton, since he had just moved his law office and had numerous trials, asked for an extension. The Court of Judicial Discipline, by Order dated June 28, 2017, extended the deadline until July 21, 2017.

David Tidd, during the hearings, vigorously contested all the allegations. He testified extensively. He also presented numerous character witnesses as to his good reputation in the community as a truthful and honest person and as a peaceful and law abiding person. He also presented numerous witnesses who observed him in the Courtroom and in essence refuted the testimony of the witnesses of the Judicial Conduct Board. Key testimony of the witnesses of the Judicial Conduct Board were refuted by Court Administrator, Deborah French, who testified that a judge did not have to wear a robe while standing at the counter and also by the Controller of Northampton County, who refuted the testimony that Mr. Tidd cheated the County in reference to constable fees involving Attorney Jim Burke.

The overlay of the entire trial was the fundamental unfairness of a staff that had no loyalty to David Tidd, where at least one staff member was cooperating with Mr. Tidd's political opponent, and secretly keeping records without notifying the judge on a timely basis. There was concern expressed throughout the hearing by Mr. Stretton that once Craig Simpson got involved and later Mr. Stretton, the staff was still encouraged to call the Judicial Conduct Board about David Tidd even though David Tidd was represented by counsel during that whole time period. The unfairness, as noted above, is seen by the failure to notify David Tidd that tapes were being preserved

so he was precluded from preserving the tapes, which would have refuted the testimony of these witnesses.

David Tidd resigned from his judicial position on July 25, 2016 because physically and psychologically he could not stand the pressure any longer, as he testified and as will be noted in the Findings of Fact.

David Tidd, by his counsel, respectfully requests these charges be dismissed as lacking merit.

IV. PROPOSED FINDINGS OF FACT AND CONCLUSIONS OF LAW

1. At the time of the judicial disciplinary hearing, David Tidd was 48 years of age with a date of birth of February 25, 1969. He has been married since December of 2008 and has two children from the marriage; Carolyn, age 7, and John, age 4 (N.T. 1085, 1086).

2. David Tidd indicated he currently resides in Berks County, having moved from Northampton County recently after his judicial resignation (N.T. 1086).

3. David Tidd completed his undergraduate training at Villanova University and graduated in 1997 with a degree in Political Science. He completed his legal training at Temple University School of Law and graduated in 2001 (N.T. 1087).

4. Mr. Tidd testified he attended college and law school later in his life. He was an auto mechanic for 22 years, including the time when he was in law school. He supported himself and paid for his college and law school with his auto mechanic work (N.T. 1087, 1088).

5. Mr. Tidd, as an auto mechanic, had worked for others and then had his own auto mechanic shop for many years in Downingtown, Pennsylvania. (N.T. 1088).

6. Mr. Tidd was admitted to practice law in 2001 and began the private practice of law in 2002. Prior to being elected District Judge, Mr. Tidd's law practice included

criminal defense work, domestic relations and bankruptcy (N.T. 1088, 1089).

7. Once David Tidd was elected District Judge, he limited his private practice only to bankruptcy work. His law office was located in Hellertown, Pennsylvania at 516 Main Street, Hellertown, Pennsylvania. His law office was 3 to 5 miles from his District Judge office (N.T. 1089).

8. David Tidd testified he resigned from his District Judge job on July 25, 2016 and moved his family and his law family to Berks County and opened an office in Wyomissing, West Reading, Berks County, Pennsylvania (N.T. 1090). Mr. Tidd testified he closed his law practice at the end of April of 2017 because he couldn't get any clients due to the extreme adverse publicity on the internet about this present judicial complaint (N.T. 1090, 1091). He testified he might begin work doing flooring in Berks County to support his family (N.T. 1091).

9. David Tidd was elected and began his term as a District Judge in Berks County in January of 2010. He was reelected in 2015. He remained as a District Judge until his resignation on July 25, 2016 (N.T. 1087, 1090).

10. Mr. Tidd testified as a practicing lawyer, he saw many District Judges handle business at the judicial counter. He testified he practiced as a lawyer in District Court sometimes five times a week. He testified the negotiated pleas and

waivers were often done at the counter by the District Judge. He indicated some judges wore their robes at the counter and other judges do not (N.T. 1093).

11. Mr. Tidd testified as a District Judge, he would always hold any hearings in his Courtroom. He would always wear his judicial robe when he was in the Courtroom (N.T. 1094).

12. Mr. Tidd explained that hearings were rare in his Court. The case load was approximately 5,200 to 5,500 cases a year (N.T. 1095). He testified the overwhelming number of cases were traffic violations and D.U.I. type cases. He noted there was a great deal of waivers of preliminary hearings for D.U.I.'s since the District Attorney's Office in Northampton County would not allow someone to apply for A.R.D. if there was not a waiver at the preliminary hearing (N.T. 1095).

13. Mr. Tidd indicated that he would handle waivers of preliminary hearings sometimes at the counter and sometimes in the Courtroom. He testified he had hearings listed every fifteen minutes. He indicated many times he did waivers at the counter because of the limited space in his Courtroom and at times defendants were held in restraints in his Courtroom or victims of sexual offenses would be in the Courtroom. Therefore, any waivers or pleas would be done at the counter (N.T. 1095-1097).

14. Mr. Tidd testified when at the counter sometimes he would wear his judicial robe and sometimes he would not. If he was going to the Courtroom, Mr. Tidd would be wearing his robe. If he was just handling matters at the counter, he would not put his robe on (N.T. 197, 198).

15. Mr. Tidd testified his practice of when to wear his robe and when not to was consistent with the other District Judges, per his experience in Northampton County (N.T. 1098).

16. Mr. Tidd's policy with police officers who were running late for a hearing would be to speak to the police officer to find out when they would be able to appear at the hearing (N.T. 1098).

17. Mr. Tidd denied ever negotiating directly with a criminal defendant or a summary defendant without an officer present or without the officer's permission (N.T. 1099).

18. Mr. Tidd explained when a criminal defendant or a police officer would walk into the Courtroom, Mr. Tidd would always ask everyone what their intentions were. He said he did that because in the past, he would have hearings in the Courtroom and then when the defendant testified, the defendant would often say they were interested in reducing the points. Mr. Tidd stated he would tell defendants charged with summary offenses to talk to the officer before going into the Courtroom (N.T. 1099, 1100).

19. Mr. Tidd testified when an officer called and said he was running late, sometimes the officer would want to make an offer to the defendant. Mr. Tidd would give the defendant the option of continuing the case if the officer was going to be late, or taking the deal offered by the police officer (N.T. 1100, 1101).

20. As to preliminary arraignments, Mr. Tidd testified the bulk of them were usually done at the counter because the defendants were in custody. Usually it was done in what Mr. Tidd called the vestibule area, which is the counter. Mr. Tidd said if a waiver of preliminary hearing was done at the counter, sometimes he would wear his robe and sometimes he would not (N.T. 1102, 1103).

21. Mr. Tidd, when doing arraignments, stated he would ask the defendant if he or she understood what they were charged with, and he would then explain the defendant his or his rights to an attorney, he would then point out the public defender application, and he would check to see if the person spoke English or Spanish and would give them the correct form. He would then set bail. Mr. Tidd would make sure each defendant was given a copy of the criminal complaint and the warrant (N.T. 1103, 1104).

22. Mr. Tidd testified that if the case was a first offense D.U.I. he would normally give R.O.R. as the bail. For

second or third offenses, Mr. Tidd would get the arrest history of the defendant. For bail for prior D.U.I.'s that were more than 10 years, Mr. Tidd would normally give unsecured bail. If someone had another D.U.I. offense within 6 months, he would check with pretrial services to see if the person could be placed on unsupervised bail (N.T. 1104, 1105).

23. Mr. Tidd denied that he never read or reviewed the criminal complaint with the criminal defendants. He testified he would either read the criminal complaint or be told by the officer the substance of the facts and charges (N.T. 1105, 1106).

24. Mr. Tidd testified that the Bail Agency in Northampton County normally did not make bail recommendations unless the judge inquired (N.T. 1106, 1107).

25. Mr. Tidd testified he would do all summary civil trials and landlord/tenant trials in his Courtroom (N.T. 1107, 1108).

26. Mr. Tidd denied trying cases at the counter except he recalled one case where both parties appeared for a landlord/tenant case. When they came in, Mr. Tidd was wearing his robe. He said the parties were arguing among themselves and because the parties would not move, he just heard the case at the counter and then finished it in the Courtroom. Mr. Tidd

testified that was the only time in six or seven years he ever did a hearing at the counter (N.T. 1108).

27. Mr. Tidd testified that he always told the defendant what he or she was charged with, and/or asked the defendant if he or she understood the charges. Mr. Tidd stated if a defendant later asked the police officer, such as Dattilio, that he or she did not understand something, that would be contradicting what the defendant had been already told by Mr. Tidd (N.T. 1108).

29. David Tidd testified no criminal defendant ever came in and complained to him about how he handles matters, either to Mr. Tidd directly or to Court Administration, or ever made any complaint other than his election opponent's wife, Ms. Rebyneck (N.T. 1109, 1110).

30. Mr. Tidd testified that he has active Crohn's Disease, which has been in remission for the last two years. He takes medication regularly for this illness. When he was a judge, Mr. Tidd mentioned that his disease was active and he would be hospitalized and placed on massive doses of steroids at times. He said during the early years, that sometimes would affect his mood (N.T. 1110, 1111).

31. Mr. Tidd testified one of the reasons he stayed at the counter was that his personal bathroom was only five steps away from the counter, while in the Courtroom, he would have to walk

thirty feet to the bathroom. He said many time he would have to use the restroom ten to fifteen times every three or four hours (N.T. 1111, 1112).

32. Mr. Tidd also testified that back in 2011, he had serious issues with his lungs. He indicated a CAT scan found a spot on his lungs and he agreed to have a biopsy. He went in for surgery on July 28, 2014, which was supposed to last forty minutes, but took four hours, and removed a third of his lung (N.T. 1112, 1113).

33. Mr. Tidd pointed out the first video that was shown where he was angry with his staff occurred approximately two weeks after his lung surgery. He testified that the hospital recommended he not go back to work for at least 90 days, but because the County would not provide him coverage with another judge, he had to go in (N.T. 1112-1114). Mr. Tidd stated because he was not successful in getting coverage, he went back to work after two weeks and had a portable oxygen tank. Mr. Tidd indicated that when he came back, the County also scheduled him for night duty in addition to his daytime hearings. He had night duty from 4:30 to 8:30 p.m., and also had his hearings in the morning and mid-afternoon. Mr. Tidd indicated he was in severe pain because of the surgery. He testified his poor health and pain explained why he was angry during that August of 2014 video because he was not feeling well (N.T. 1114-1117).

34. Mr. Tidd testified he normally arrived in his judicial Courthouse between 7:30 a.m. and 8:00 a.m. every morning and opened the Courthouse. He said when he first became a judge, he arrived around 9:00 a.m., but after his children were born, he would get up early and was usually there between 7:30 a.m. and 8:00 a.m. (N.T. 1118, 1119).

35. Mr. Tidd testified how he handled both his judicial duties and his law office. He testified that it was his practice to be in his judicial office in the morning and early afternoon. He would make appointments in his law office usually after 4:00 p.m. or in the early evening (N.T. 1118, 1119). He noted he normally would not go to his law office until 2:00 p.m. or 3:00 p.m. He presented his judicial calendars and noted he blocked out the mornings and early afternoons always for his judicial duties (N.T. 1119, 1120).

36. In terms of afternoon hearings at his Court, Mr. Tidd found that was not effective and the judge he replaced had always done hearings in the mornings with rarely any afternoon hearings, so he followed the same schedule (N.T. 1120).

37. Mr. Tidd testified once he was an elected District Judge, his law practice only handled bankruptcy cases and he had an attorney associate working for him at that time (N.T. 1120, 11210).

38. In terms of checking conflicts, Mr. Tidd did not use his Court staff because he had been told not to use Court staff for anything that was not Court related. Initially he was also not using the UJS portal to check conflicts because he was not familiar with it. Later in his judicial career, he started to use the UJS portal (N.T. 1121, 1122).

39. Mr. Tidd presented excerpts from his law office calendar, which was marked as Exhibit "R-A". The calendars reflected the afternoon meetings with his bankruptcy clients and reflected the source of how the clients came to the office. His calendar also would note whether there would be a conflict (N.T. 1123, 1124).

40. Mr. Tidd testified his law office calendar entries were produced to show the Judicial Conduct Board during the early investigation that Mr. Tidd did not take clients from his judicial business, but they came from other sources, such as the Yellow Pages, Clipper Magazine, the phone book, etc. (N.T. 1124, 1125).

41. Mr. Tidd denied ever intentionally taking a client from District Court who was having financial difficulties, and denied bringing them over to his bankruptcy law practice (N.T. 1126).

42. Mr. Tidd testified about Ms. Rebyneck, a bankruptcy client who came into his office in 2010 or 2011. He noted on his

office calendar, "possible conflict", which had been written by a staff member. He testified he had no recollection or knowledge that she had a civil case pending in his District Court when she came into his law office. He said his legal associate at the time ultimately discovered she had cases in his Court and Mr. Tidd moved to transfer her case to another District Judge. Mr. Tidd testified if he had known about the earlier litigation, he would not have taken her case (N.T. 1127-1129).

43. Mr. Tidd testified he was not aware of every judgment entered in his District Court. If there were default judgments, they were normally entered without him ever seeing them. If there was a default judgment, his signature would be affixed electronically. That was the procedure for the District Judge system in his County (N.T. 1130).

44. Mr. Tidd testified he sought advice with the Minor Judiciary's Ethics Committee about how to handle any conflicts between his judicial duties and his bankruptcy practice. He presented a document marked "R-1", which is a letter he received from District Judge Jayne Dunkin dated September 25, 2011, where she had provided advice. Mr. Tidd summarized the Rule and said he attempted to follow it (N.T. 1131, 1132).

45. Mr. Tidd testified he believed, but he could not say for sure that he had shown that advisory letter to President

Judge McFadden during the meeting in 2011 about the interaction between his judicial duties and private law practice. Mr. Tidd testified he continued to seek ethics advice from the Minor Judiciary Ethics Committee and received advice as late as August of 2014 (see Exhibit "R-1-b") (N.T. 1132-1134).

46. Mr. Tidd testified he did recuse himself from between five and ten cases over six years. He presented change of venue orders, which were Exhibits "R-4-a" and "R-4-b" (N.T. 1134, 1135).

47. Mr. Tidd emphatically denied he ever intentionally used his judicial office to get bankruptcy clients (N.T. 1135).

48. Mr. Tidd testified that when he told Ms. Rebyneck, who was then Ms. Zeigler, that he would make everything go away, he was not talking about anything he would do, but was talking about the automatic stay the filing of a bankruptcy petition would have on the pending state trials (N.T. 1136).

49. Mr. Tidd testified he had no idea until sometime in 2015 that his secretaries were keeping daily records and notes on him. He testified he really never formally learned of their record keeping and video selection until his depositions in 2016 (N.T. 1136).

50. Mr. Tidd testified he had believed his relationship with his secretaries was okay. He indicated he believed he had a good relationship with Brenda Anthony and even helped her out

financially by giving her a check for \$750.00 because she was having financial problems. He also gave a check to her daughter, Amber Buth, for \$100.00 on two occasions because he had overdrawn her accounts and didn't want to tell her mother. Mr. Tidd had also offered Diane Kale \$250.00 when she was having some financial difficulties with her grandchild (N.T. 1136-1138).

51. Mr. Tidd testified that except for Ms. Cassandra Bettler, everyone on his staff always appeared to be competent. He indicated that Ms. Bettler was slow in getting things done and that created tension with the other staff members, including Diane Kale. Mr. Tidd said when his staff would be in his judicial office there were often informal, friendly conversations about television, football and things of that nature. He testified he thought everything was fine. He said he would bring his children in and the staff would talk to them. Mr. Tidd indicated he had no idea that his staff was against him and keeping records on him (N.T. 1139, 1140).

52. Mr. Tidd testified about the meetings he had with then President Judge McFadden in 2011 and 2012. The first meeting was about the bankruptcy client, Nieves. He testified that when she came in, she had a Common Pleas number for a judgment, but he didn't realize that the original judgment came from his Courtroom. He indicated that the lawyer on the other side then

raised the issue with him and copied Court Administration. He testified as soon as he learned, he recused himself from the Nieves matter. He said he explained this to Judge McFadden (N.T. 1141, 1142).

53. Mr. Tidd testified at the second meeting with Judge McFadden in 2012, she mentioned his language and he asked who he was supposedly cursing at. He said Judge McFadden would not give him any specifics. He mentioned Judge McFadden did mention wearing his robe. There were no real specifics provided. He testified as he did before, that he always wore the robe in the Courtroom and sometimes he did and sometimes he did not when he was at the counter. He said after this meeting he did start to wear the robe more at the counter, but it was awkward because he had to go to the bathroom so many times with his Crohn's Disease that he often times did not wear the robe (N.T. 1143-1145).

54. Mr. Tidd stated that during his meetings with Judge McFadden, he had no idea his staff was upset and no one said anything to him (N.T. 1145, 1146).

55. Mr. Tidd testified he ran for reelection against David Rebyneck, who had married his former client. Mr. Tidd said he had been given information by a police officer that one of his staff members was contacting Rebyneck about his office. Mr. Tidd stated that was the reason on April 23, 2015 he came in to talk to his staff and locked the front door so he could speak

privately with them about what he was told. He indicated Officer Stephen Kunigous told him that Brenda Anthony was communicating with his opponent. He indicated he raised his voice. He did not recall using curse words and normally does not use the "f" word or "mf" word. He stated his concern was that the staff was going behind his back to his political opponent about his upcoming Primary Election (N.T. 1147-1149).

56. Mr. Tidd stated that over the years when he talks to his staff at times, colloquially he would at times use the "f" word. He testified he never said after his meeting with Judge McFadden the "ffffff" to his secretaries (N.T. 1149, 1150).

57. Mr. Tidd testified when he closed the office door to talk to his staff in private about what the police officer told him, the secretaries could have left at any time and could have gone through the back entrance. He said he closed the front door to keep the public out during this meeting (N.T. 1150).

58. Mr. Tidd indicated during this meeting that his staff, including Brenda Anthony, denied any contact with Mr. Rebyneck, his political opponent. He testified he asked President Judge Barrata to transfer Ms. Anthony because he considered her disloyal if she was contacting his opponent. He said he cancelled the meeting with Judge Barrata because he couldn't give him any more specifics about it other than the hearsay statement of Police Officer Kunigous and Brenda Anthony denied

any contact. Mr. Tidd then referenced the statement that was presented during the hearing that was made by Mr. Rebyneck to the Judicial Conduct Board where Mr. Rebyneck stated that he was communicating with Ms. Anthony about the office, which totally contradicted Ms. Anthony's testimony (N.T. 1150-1152).

59. Ms. Rebyneck was confronted with the statement the Judicial Conduct Board had of David Rebyneck, her husband, where he indicated he had communications with Brenda Anthony, an employee of Judge Tidd, during his campaign (N.T. 1150, 1151).

60. Mr. Tidd testified in February of 2016, he received the letter of inquiry from the Judicial Conduct Board. He had received that from his then attorney, Craig Simpson. He agreed that he spoke to his staff after he received the letter because he was upset and said it was "a knee jerk reaction". Mr. Tidd stated he had been hearing rumors and innuendos about the investigation and when he found out his staff had actually turned him in, he was very upset. Mr. Tidd noted in hindsight, he should not have yelled at the staff that day (N.T. 1153-1155).

61. Mr. Tidd also discussed the video tape involving him yelling at Cassandra Bettler. He said there was a history of Ms. Bettler not listening to him and not doing what she was supposed to be doing. He said Diane Kale, one of his staff members who was monitoring Ms. Bettler, always complain to him

about Ms. Bettler. Mr. Tidd stated that yes or no was an acceptable answer, but grunting at him was not. Mr. Tidd indicated he did not know that Ms. Bettler had some hearing loss due to surgery when she was young. No one ever told him that (N.T. 1155-1157).

62. Mr. Tidd indicated he has seen the four video tapes and was mortified of what he saw. He said if someone had said something, he would have sought help. He mentioned over the years, he had contacted professionals, such as Judges Concerned with Judges (N.T. 1156-1158).

63. Mr. Tidd pointed out those four videos did not reflect the "norm" of his relationship with his staff. He noted there was no curse words mentioned in any of the tapes. He did not use curse words except in the give and take and banter with his staff (N.T. 1159, 1160).

64. Mr. Tidd talked about his anger at his staff on Election Day, May 19, 2015. He testified he was at the most popular polling place greeting voters when Brenda Anthony texted him about his scheduled hearings. He said he called her immediately because he had told her not to schedule any hearings for Primary Election Day. He also had spoken with Judge Barner to cover for him on Primary Election Day (N.T. 1161, 1162).

65. Judge Barner testified and confirmed that he used to cover for David Tidd when Mr. Tidd was unable to be present.

Judge Barner indicated that the contact by Mr. Tidd was informal. Judge Barner stated he spoke to Mr. Tidd on Election Day and agreed to cover. Judge Barner said Mr. Tidd may have called him the day before, but he did not recall (N.T. 1228-1231).

66. Mr. Tidd agreed on Election Day when he came in to the office, he was very upset with Ms. Anthony about scheduling him on Election Day, and he did raise his voice. He yelled at her on the telephone and then when he came in. But, he noted that Ms. Anthony was the same person who had been cooperating with his opponent and then lying about her cooperation (N.T. 1161-1164). Mr. Tidd indicated although perhaps he was wrong, his reaction was an understandable human response (1164-1166).

67. Mr. Tidd testified he called the Court Administrator, Ms. French, on Election Day, and she had confirmed that he had off Primary Election Day (N.T. 1166). Mr. Tidd pointed out that he worked a guilty plea as he was leaving, with Attorney Minotti and Officer Winters, for a reduced plea of the client to disobeying of traffic signals (N.T. 1166, 1167).

68. Mr. Tidd stated shortly after Election Day in 2015, Ms. Anthony was transferred out of his Court (N.T. 1167).

69. As to respect for his judicial robe, Mr. Tidd explained that he slept in his office one day because of his Crohn's Disease and to relieve the cramps. He said one of the

treatments for severe cramps was to lie down. Since it was the summer, he did not have his coat with him, so he used his robe to prop up his head while he laid down in the privacy of his judicial office. He stated he didn't believe anyone would walk in his office since his door is marked "Private." Mr. Tidd mentioned he had no idea Ms. Bettler was going to go in his office after he left to photograph his robe and she did not have permission to do so. He indicated he had no idea she was keeping notes and records on him (N.T. 1169, 1170).

70. The Clerk of Court of Northampton County, pursuant to Mr. Stretton's subpoena, brought in the file of the case of Commonwealth v. Frederick Lance, which was reviewed by Ms. Flaherty, Mr. Stretton and Mr. Tidd. (N.T. 1250-1252).

71. Mr. Tidd reviewed the file and indicated this was a case in his Courthouse for terroristic threats and harassment. The file reflected that he personally arraigned the person on December 1, 2011 and said he knew that because of the way the signatures and the type of pen used. This refuted the testimony of one of the staff, Lisa Levan, that she did this waiver without Mr. Tidd being present (N.T. 1256-1258).

72. Mr. Tidd testified that in April of 2016, he decided to change constables from Douglas Fulmer and Stanley Smith to Richard Seeds and his assistant, Fred Schoenberger (N.T. 1295).

73. Mr. Tidd indicated he was more comfortable with Mr. Seeds. He said Brenda Anthony and Diane Kale refused to work with them in the past (N.T. 1295).

74. Mr. Tidd indicated it was standard procedure for a constable to work for a specific District Judge who can hire and fire at his pleasure. Mr. Tidd indicated that the secretaries would not cooperate with Mr. Seeds. Mr. Seeds, unfortunately, had been hospitalized for pneumonia and was not able to appear to testify at the hearings (N.T. 1296-1299).

75. Mr. Tidd testified he complained to the Court Administrator and to present counsel about the secretaries not following his constable instructions. He also indicated he told Ms. Bettler not to give additional monies to the constable, but she refused to follow his instructions. Mr. Tidd indicated that the President Judge and the Court Administrator never addressed his concerns (N.T. 1300, 1301).

76. As to the video system, Mr. Tidd testified he learned at a CLE for District Judges there were enhanced video systems, which he wanted for security reasons. He indicated his Courtroom and his secretaries had no real security glass or any real security measures in his office (N.T. 1301-1303).

77. Mr. Tidd stated he did not know who could access the video. He said the first time he was aware that he was the one

who could access the video system was when President Judge Barrata sent a letter in 2016 to Mr. Stretton (N.T. 1305, 1306).

78. Mr. Tidd stated he never gave Cassandra Bettler or any other staff member permission to access the four videos that were played by the Judicial Conduct Board. He said they never asked for permission and never let him know they were preserving those tapes (N.T. 1305-1307).

79. In reference to Attorney James Burke, Mr. Tidd said that Mr. Burke, as an attorney, appeared frequently in his Courtroom. He indicated that over the last six years, he had lunch with Mr. Burke four or five times. Mr. Tidd indicated he has also had lunch with other lawyers four or five times (N.T. 1307).

80. Mr. Tidd stated he believed Mr. Burke had approximately six parking tickets. He indicated Mr. Burke would receive the parking tickets because his son would drive the car and park it where there was permit parking only. Mr. Tidd stated one time Diane Kale said there was going to be a warrant for Mr. Burke and he told her to call Mr. Burke and tell him to come in and pay the fine. Mr. Burke then came in (N.T. 1307, 1308).

81. Mr. Tidd testified he remembered one or two other occasions where there was a warrant for Mr. Burke due to the parking issue and he told the secretaries to call Mr. Burke and

tell him to come in and pay or else a warrant would be issued (N.T. 1309).

82. Mr. Tidd testified if Mr. Burke hadn't come in, the warrants would have been issued and Mr. Burke would have had to pay constable fees and additional fees if he was found guilty (N.T. 1310).

83. Mr. Tidd testify he had no standing order about Mr. Burke being called before issuing a warrant (N.T. 1310, 1311).

84. Mr. Tidd denied ever giving Mr. Burke special consideration. He indicated that he would have called any person if he had a way to contact them (N.T. 1311, 1312).

85. Mr. Tidd stated he did not believe he ever had to recuse himself when Mr. Burke appeared in his Courtroom. He noted no one ever asked him to recuse himself. He said if he had to recuse himself from Mr. Burke, he would have to recuse himself from most of the members of the Bar since he knew many of the other lawyers even better than he knew Mr. Burke. He indicated neither Ms. French nor either President Judge ever asked him to recuse himself (N.T. 1317-1319).

86. Mr. Tidd emphatically denied he instructed his staff and clerks not to charge the constable fees. (N.T. 1313).

87. Stephen Barron, Jr., the elected Controller for Northampton County, testified pursuant to a subpoena. He had contacted Mr. Stretton after he had read in the newspaper the

testimony of Mr. Tidd's staff as the Judicial Conduct Board's witnesses when they testified Mr. Tidd was unfairly taking constable fees and charging them to the county on Mr. Burke's case. Mr. Barron emphatically stated there was no such evidence and there was no evidence of any fees or costs for constables being shifted over to the County and away from Mr. Burke (N.T. 1217-1219).

88. Mr. Barron also indicated that his audit after Mr. Tidd left office did not reveal any misconduct whatsoever (N.T. 1220).

89. Mr. Barron's testimony absolutely refuted the testimony of the Judicial Conduct Board's witnesses who said Mr. Tidd had diverted the funds, so the County taxpayers and not Mr. Burke had to bear the loss.

90. Mr. Tidd emphatically denied ever retaliating against any of his staff who made complaints against him (N.T. 1315).

91. Mr. Tidd indicated he did not consider it retaliation to ask for the transfer of Brenda Anthony. She was designated as his personal secretary. He said he could not trust her any longer because of the aforementioned working with his opponent (N.T. 1315, 1316).

92. Mr. Tidd agreed that he told Cassandra Bettler not to contact Ms. Kale and Ms. Anthony after they left. The reason was he didn't want her to feel that Kale and Anthony would be

running things and he wanted more control over his office (N.T. 1317).

93. Mr. Tidd talked about the testimony of Police officer Jared Gunshore, who was called by the Judicial Conduct Board. Judge Tidd testified it did not occur to his recollection, but there was a long passage of time. He said he remembered Attorney Potts coming in because he had quit the Public Defender's Office and he was talking about leaving the practice of law. Mr. Tidd had known him since they were both young lawyers. He thought Mr. Potts might have mentioned that this was an A.R.D. case, it would be a waiver. To the best of Mr. Tidd's recollection, he might have said to Officer Gunshore that it was an A.R.D. and a waiver. Mr. Tidd indicated if it was going to be a waiver with an A.R.D. request, the officer was not normally involved in the decision making (N.T. 1319-1321).

94. In reference to ex parte communications, Mr. Tidd explained in Northampton County, there are no public defenders or assigned District Attorney's to his Courtroom. He noted that when people came in to Court, they often have questions about their charges. He indicated if the judge did not speak to the individuals, nothing would move forward (N.T. 1321, 1322).

95. Mr. Tidd stated no police officer ever complained to him during his years as District Judge about any of the hearings or anything he was doing (N.T. 1323).

96. Mr. Tidd testified, except for one case, no one who he had adjudicated ever came back or threatened him or filed a complaint against him. He noted there was one case in a landlord/tenant matter where a man complained about him calling one of the witnesses or parties by their first name since that was on the man's t-shirt (N.T. 1323).

97. Mr. Tidd stated after he resigned his judicial position in July of 2016, he did show up as an attorney at his old Courthouse to handle one case and his old judicial staff immediately called the Judicial Conduct Board. He testified he did nothing to them and only came in and walked into the Courtroom and handled the matter before the Senior Judge (N.T. 1324).

98. Mr. Tidd testified that many of the complaints were about matters in 2011, 2012 and 2013. He testified it was extremely difficult to respond because of the passage of time and he noted the aforementioned issue with Attorney Potts.

99. In reference to not giving persons their right to a full hearing, Mr. Tidd denied the allegations in the complaint, particularly paragraph 122 that he conducted trials at his counter. He testified he never conducted a trial at his counter (N.T. 1327).

100. Mr. Tidd denied allegations in paragraph 127 that between 2011 and 2016, he routinely encouraged pro se defendants

to waive their preliminary hearings even when they had questions and wanted an attorney. Mr. Tidd indicated that is just not true. Mr. Tidd indicated for pro se defendants, he would explain the process. He might mention to people that in Northampton County, if you desire to apply for A.R.D., you had to waive your right to a preliminary hearing. He said at times he would tell defendants if they waived, they have the right to apply for A.R.D. But he never encouraged people to give up their rights (N.T. 1327, 1328).

101. Mr. Tidd denied in paragraph 133 that he told his staff, "They don't pay me enough to have hearings." Mr. Tidd has no recollection of ever saying that (N.T. 1329).

102. Mr. Tidd denied the statements of Officers Dattilio, Piotrowski and Johnston that he failed to inform defendants of the right to an attorney, and explain the charges. He further denied that he did not give enough time. Mr. Tidd explained the officer would bring the defendant for arraignment, the defendant would have a copy of his or her warrant and complaint. Mr. Tidd would ask the officer what the defendant was charged with, and would ask the defendant if he or she understood the charges. If the defendant said yes, Mr. Tidd left it at that. He had preprinted forms given with the names of public defenders and Mr. Tidd would also tell the defendant they should get an attorney (N.T. 1329, 1330).

103. In reference to directing the staff to handle matters when he was not present, Mr. Tidd indicated there were some instances that on short notice, he would not be able to be in Court. He did not think it was right to continue cases and he could not call defendants since their phone numbers were not on the complaints. He noted people got upset if they took off of work and appeared and the case was continued. He, therefore, said when he could not be there, he would tell his staff if the case was a waiver and the defendant has counsel or if it is a straight wavier, which is usually only done for D.U.I.'s, to accept the waiver and give them a preliminary hearing date. If anyone wanted a hearing, the staff was instructed to continue it until a later date (N.T. 1331, 1332).

104. Mr. Tidd indicated no one ever told him not to do that and he has been in many District Courts where the above was the routine procedure (N.T. 1332).

105. Mr. Tidd indicated when that occurred, it was in November of 2011 and since that time, he has no recollection of having those kinds of waivers (N.T. 1333).

106. In reference to paragraph 139, the Phil Berg matter in January of 2012, Mr. Tidd indicated because of the passage of time, he had no recollection, but believes he would not have done that (N.T. 1333).

107. As to paragraph number 140 involving Trooper Hayes and a traffic ticket, Mr. Tidd had no recollection, but he indicated if there was an agreement between an officer and a trooper and there was a change of plea, the trooper would make the amendment. If that was acceptable to the trooper, the staff would know it was acceptable to the judge. Mr. Tidd indicated he could have been on a phone call with another judge at the time and might have even opened his door and just said, "Take it." Mr. Tidd denied ever attempting to deny or encourage people not to have hearings (N.T. 1334, 1335).

108. As to paragraph 141 concerning the landlord/tenant matter, Mr. Tidd indicated he had no recollection, but it was not uncommon in landlord/tenant cases when there were agreements and parties would enter into agreements for the judgment (N.T. 1335).

109. As to paragraph 147 concerning a phone call on August 27, 2014 and conducting a video without an officer, Mr. Tidd indicated he had no recollection of that. But he noted in Northampton County, the officer doesn't have to be present for a video arraignment. There is a Polycom system (N.T. 1336, 1337).

110. As to the conflict of interest and prioritizing his bankruptcy practice, paragraphs 153 to 243, Mr. Tidd denied ever intending to misuse his judicial office to aid in the bankruptcy of clients (N.T. 1340, 1341).

111. Mr. Tidd testified as soon as he found out if there was a conflict, he immediately moved to change the venue to get the case out of his District Court. He denied ever using his position as a judge to get bankruptcy clients or cases (N.T. 1340, 1341).

112. Mr. Tidd stated he had received clarification and sought advice from the State Ethics Committee in reference to Exhibits "R-1" and "R-2" (N.T. 1341, 1342).

113. Mr. Tidd denied violating any of the charged Rules of Judicial Conduct, either from the old Judicial Code or the new Judicial Code (N.T. 1342).

114. Mr. Tidd, at the end of his testimony, noted the following. He indicated since he has left the bench and appeared as defense counsel again, he understands better how things appear. He said if he was ever a judge in the future, he would just keep to his Courtroom. He noted he was embarrassed by the way he acted toward his employees on the video and said though that although his reaction might have been justified due to circumstances, i.e., scheduling for election, illness, and contact with his political opponent, he said he did not think it was acceptable as a human being and he regretted his outburst (N.T. 1343, 1344).

115. Mr. Tidd explained several days before he resigned from his judicial office, Police Officer Fragano found Mr. Tidd

on his front porch slumped over a flight of stairs. Mr. Tidd said at that point, he could not stand the rumors and innuendos any longer because of the investigation. Through the officer he made arrangements to get some help and spent several days in Muhlenberg Hospital. As soon as he was released, he then signed his letter of resignation in July of 2016. He said he left not out of a sense of guilt, but out of an emotional inability to handle it anymore (N.T. 1346).

116. Mr. Tidd testified when he held hearings and advised people, he always had their best interests at heart. There was never a selfish motivation. He said at times he would do things very quickly, but it was the right thing. His priority was always the person in front of him and he was not any better than anyone else. (N.T. 1347).

117. Deborah French, the Court Administrator, admitted that she received complaints against Mr. Tidd from the staff starting in January of 2011 through February of 2012. She also agreed she never brought those complaints to Mr. Tidd or read them to him. She also agreed that at the meetings with Judge McFadden, these complaints were not raised (N.T. 554, 555).

118. Ms. French had indicated at the meeting with Judge McFadden all she really told him was to wear his robe at hearings, not to do hearings at the counter and not to raise his voice (N.T. 555).

119. Mr. French confirmed that Judge Tidd noted he was having problems with police officers who were not regularly available for scheduled hearings during the meetings in 2011 and 2012 with Judge McFadden (N.T. 558).

120. Ms. French testified she received only two complaints that Mr. Tidd was not present in six and one half years (N.T. 561, 562).

121. Ms. French testified she never told Mr. Tidd he was not moving his cases fast enough (N.T. 562).

122. Ms. French stated she was not aware that the clerks were saving videotapes until the charges were brought. She stated the clerks would not have had the authority to selectively save the four tapes. She indicated that the video tapes over itself every thirty days (N.T. 567, 568).

123. Ms. French confirmed that Mr. Tidd was always concerned about the security in his office. Ms. French stated she was aware that he often sat in the area where the clerks were and she agreed that no one ever told him he should only sit in his chambers. She agreed that Mr. Tidd's phone had been moved to another area and he requested a second phone, and that was not provided (N.T. 568-571).

124. Ms. French contradicted the testimony of Mr. Tidd's judicial staff by stating that the judge was their immediate supervisor and they should respect confidentiality and have

loyalty to him (N.T. 572). She indicated clerks were to follow the instructions of the judge (N.T. 572). This contradicted the testimony of the judicial staff.

125. Ms. French testified she never told Mr. Tidd about the telephone calls and contact from his staff. When asked why she didn't tell the judge, Ms. French said the staff was fearful and her only obligation was to the President Judge. She agreed she did not go to Judge McFadden and she agreed there were years of complaints where Mr. Tidd was not told anything or given a chance to change (N.T. 574-576).

126. Ms. French testified that over the years 2012, 2013 and 2014, she only heard an occasional complaint (N.T. 576). This testimony contradicted the testimony of the staff.

127. Ms. French testified as follows:

Question: And there is no policy in Northampton County about matters being resolved in the counter that didn't require trial testimony or swearing in, there is no such policy, even in your orientation sheet, is there?

Answer: No, there is not.

Question: And, in fact, judges do resolve things at the counter if there is agreements you are aware of, that from supervising a lot of judges for?

Answer: I mean, resolving, I guess I would need a specific whether to answer yes or no. Can someone come in and plea at the counter and the judge accepts the guilty plea? Sure that happens.

Question: That happens all the time in Northampton County.

Answer: It's not a trial. It's not a court proceeding. It's the entering of a guilty plea.

Question: And similarly, if there is a civil case and the person doesn't show up, the defendant default judgments are just entered and usually done...the paperwork at the counter by the judge?

Answer: I would agree with that, too, yes." (N.T. 577, 578).

128. Ms. French, when asked about waiving preliminary hearings at the counter, voiced her opinion she thought they would be done in the Courtroom, but there were no notes or instructions telling a judge to do that. She never told Mr. Tidd that the waivers should be done in the Courtroom (N.T. 578, 579).

129. Ms. French agreed that Ms. Anthony should not have contacted or given information to Mr. Tidd's opponent in an election (N.T. 582).

130. The testimony of Deborah French totally contradicted the testimony of the Judicial Conduct Board's witnesses and she confirmed that activities at the counter were acceptable and confirmed that the loyalty of the clerks was to the judge, and further, that Mr. Tidd was never advised that he was doing anything wrong.

131. Ms. French contradicted the testimony of Brenda Anthony that she was taught to have no loyalty to their judge. Ms. French indicated the judge was their immediate supervisor (N.T. 595).

132. Ms. French indicated from 2012 until the judicial complaints were filed in 2016, she never did a memo, nor did the President Judge, to say anything to Mr. Tidd about issues with the secretaries or changing anything (N.T. 597). This prevented Mr. Tidd from dealing with any issues.

133. Ms. French, when asked about the policy in Northampton County when complaints are made by the staff of a judge to not tell the judge, her policy was only to address it with the President Judge. She indicated the President Judge never told her not to tell Mr. Tidd (N.T. 597-599).

134. In terms of Judge Barner on Election Day, Ms. French agreed that although a letter of coverage should be sent, it was the policy often in Northampton County to do so until after the fact (N.T. 599, 600).

135. Ms. French testified that the Judicial Conduct Board never told her about the statement they had from Mr. Rebyneck concerning Brenda Anthony contacting his political campaign with information against Mr. Tidd (N.T. 603, 604).

136. Ms. French indicated Brenda Anthony never told her she was leaking information to Judge Tidd's opponent (N.T. 604).

She was confronted with Brenda Anthony's testimony that she never did anything to support Judge Tidd's opponent and had no contact with him. This was totally refuted by the memo of the Judicial Conduct Board. She indicated she did no investigation about Ms. Anthony's contact with Mr. Tidd's political opponent (N.T. 604-607).

137. Deborah French contradicted Diane Kale's testimony that she was never terminated before. She agreed that Judge Tascher did terminate her for insubordination (N.T. 607).

138. President Judge Barrata when confronted about Brenda Anthony contacting Judge Tidd's opponent contradicted Ms. French and indicated he had asked her to look into the information. He indicated the Judicial Conduct Board had not made the Rebyneck memo available to him (N.T. 692, 693).

139. Judicial Conduct Board witness Police Officer Timothy Piotrowski testified that Mr. Tidd always wore his robe when he had hearings in his Courtroom (N.T. 782).

140. Police Officer Piotrowski testified that Mr. Tidd had good demeanor and he was shocked to see the allegations (N.T. 782). Officer Piotrowski never saw Mr. Tidd demean or mistreat his staff (N.T. 783).

141. Officer Piotrowski testified when Mr. Tidd did the arraignments years ago, he sat down and advised the defendant of their rights (N.T. 783).

142. Officer Jeffrey Johnson, another witness for the Judicial Conduct Board, testified Mr. Tidd always treated him with respect, and Mr. Tidd treated all defendants with respect (N.T. 800).

143. Officer Johnson testified Judge Tidd, in the Courtroom, always wore his judicial robe (N.T. 800).

144. Officer Johnson testified in the beginning years, Mr. Tidd always wore his robe (N.T. 801). He testified Mr. Tidd did the majority of his trials in the Courtroom, but when asked to name the case, that didn't happen, he was not able to give any specifics other than it was six or eight years ago on a speeding case (N.T. 802).

145. Police Officer Jared Gunshore, a Judicial Conduct Board witness, testified. He referenced the Potts matter, which Mr. Tidd had already referenced, was many years ago, back in January of 2012. When he was questioned, that this was an A.R.D. waiver, the officer did not remember the details (N.T. 817).

146. Detective Dattilio, despite believing that Mr. Tidd did not always notify defendants properly, indicated he never filed any appeals on any of those issues or raised any formal complaints (N.T. 757).

147. When asked, didn't Judge Tidd give clients a written piece of paper of their rights, Detective Dattilio indicated he

could not testify since he never took notice (N.T. 758). He indicated he did not know one way or the other (N.T. 758).

148. Detective Dattilio indicated that if there was a waiver of preliminary and counsel was present, they were done in the Courtroom. If no counsel was present, the waiver was done at the counter (N.T. 759). The detective agreed he would summarize the facts to the judge normally (N.T. 760).

149. Cassandra Bettler testified that Deborah French told her she could keep notes if she wished. Ms. Bettler agreed she never told Mr. Tidd she was keeping notes on him, and Ms. French never told Mr. Tidd (N.T. 958). Ms. Bettler stated she turned her notes in to Brenda Anthony (N.T. 959).

150. Ms. Bettler indicated she knew Mr. Tidd was sick with colitis and lung issues and other matters. When asked if she saw him sleeping if he wasn't feeling well, her answer was, "I guess." She indicated she never asked Mr. Tidd if she could help him in any way (N.T. 961).

151. Ms. Bettler was questioned about why she photographed the judge's robe in his private court office. She had no explanation why she did that (N.T. 962).

152. Ms. Bettler testified she was the one who preserved the four videotapes and she agreed that they "chose the worst incidents." She agreed that Diane Kale, Traci Drayton, Crystal

Allman and Brenda Anthony were the individuals who chose the tapes (N.T. 962-963).

153. Ms. Bettler agreed that she never received any permission to take these tapes. She agreed that Deborah French did not give her permission, Judge Barratta did not give her permission and Mr. Tidd was never asked (N.T. 963).

154. Ms. Bettler agreed that none of the tapes had any curse words on them (N.T. 966). She was questioned why she did not pull the tape supposedly where Mr. Tidd used the "f" word and "mf" word, but she has no answer. Ms. Bettler was questioned why she didn't pull the tapes when Ms. Anthony said Mr. Tidd told her after his meeting with Judge McFadden the "f" word many times, "ffffff". She had no answer why she did not preserve those tapes (N.T. 966-968).

155. Ms. Bettler agreed that Mr. Tidd would not leave his judicial office until his hearings were done and he would return in the afternoon if he had to for other business (N.T. 971).

156. Ms. Bettler agreed that many of the conversations with Mr. Tidd were good and people were laughing and joking, but she and the staff chose not to preserve any of those conversations (N.T. 972).

157. Ms. Bettler shockingly testified she would not be aware that Mr. Tidd would not want to be present in Court on

Election Day when he was up for reelection, saying it was her "first election." (N.T. 975, 976).

158. Ms. Bettler indicated she and others made a conscious decision not to preserve the tape when Mr. Tidd came in and confronted Brenda Anthony about leaking things to his political opponent (N.T. 978).

159. Ms. Bettler confirmed that Brenda Anthony stated she never leaked anything to Mr. Tidd's political opponent. She said she would be shocked if she heard now that Brenda Anthony lied based on the memo from the Judicial Conduct Board that Brenda Anthony was talking to the opponent, Mr. Rebyneck, during the campaign (N.T. 980).

160. Ms. Bettler indicated when Mr. Tidd told her to use Constable Seeds, she chose not to follow his orders, but to call Deborah French. When asked why she called Deborah French, she stated she felt "I needed to talk to her." (N.T. 985, 986).

161. When asked about Mr. Burke, Ms. Bettler stated Mr. Tidd told him to come over and pay the fines, but she agreed that the warrants would be issued if Mr. Burke did not pay the fines (N.T. 991).

162. When questioned about her complaining about Mr. Burke getting continuances, she had to agree that all lawyers received continuances the first time, or a second time if they were in Common Pleas Court. She was not able to give any specifics with

Mr. Burke (N.T. 993, 994). Ms. Bettler indicated she didn't know how many continuances Mr. Burke was granted (N.T. 995).

163. Ms. Bettler, as did the others, testified that Mr. Tidd was charging the County for Mr. Burke's constable costs. When confronted with the fact that the County Controller testified that never happened, she would not change her testimony. Ms. Bettler's testimony on that alone should be the basis to totally disregard her testimony (N.T. 999, 1000).

164. Ms. Bettler indicated Mr. Tidd did not wear his judicial robe in the Courtroom, but could not give any specifics. She was confronted by all the police officers and all the other witnesses. Ms. Bettler's testimony, which is false, was that it was rare Mr. Tidd ever wore his robe to the Courtroom (N.T. 1002).

165. Numerous witnesses came in and testified that Mr. Tidd ran his Courtroom the correct way and was a person of excellent character for all the appropriate character traits.

166. Attorney Phil Lauer, who has been practicing law in Northampton County for 49 years and was the former Chair of the Pennsylvania Criminal Rules Committee appointed by the Supreme Court, testified he had been in David Tidd's Courtroom many times. He testified that David Tidd's reputation in the community as a truthful and honest person and as a peaceful and law abiding person was good (N.T. 1038, 1039).

167. Mr. Lauer testified he was in David Tidd's Court twenty or more times over the last six years. He indicated Mr. Tidd often took time to explain to litigants what was going on. Attorney Lauer stated Mr. Tidd was fair and he treated everyone fairly (N.T. 1040).

168. Mr. Lauer stated he never saw Mr. Tidd use obscenities or bad language or mistreat his Courtroom staff (N.T. 1040, 1041).

169. Mr. Lauer indicated anytime there was a hearing, it was held in the Courtroom. He indicated Mr. Tidd always wore his robe in the Courtroom (N.T. 1041, 1042).

170. Mr. Lauer indicated there were many times he went to the counter when Mr. Tidd would have his robe on (N.T. 1043, 1044).

171. Mr. Lauer confirmed Mr. Tidd always advised criminal defendants of their right to preliminary hearings and went through the various steps at the arraignments (N.T. 1044, 1045).

172. Mr. Lauer confirmed there are other judges in Northampton County who did not wear their robes at the counter and did court business at the counter (N.T. 1045).

173. Mr. Lauer indicated that it was his belief that David Tidd was a very knowledgeable judge and someone who dealt with matters professionally and fairly (N.T. 1046, 1047).

174. Attorney Joseph Yannuzzi, who has been practicing law for 26 years, testified (N.T. 1053, 1054).

175. Mr. Yannuzzi has appeared before David Tidd over the years. He indicated he would appear in Mr. Tidd's District Court about 12 to 15 times a year (N.T. 1055).

176. Mr. Yannuzzi confirmed that David Tidd's reputation in the community as a peaceful and law abiding person and as a truthful and honest person was good (N.T. 1056).

177. Mr. Yannuzzi confirmed that all hearings were held in Mr. Tidd's Courtroom and he always wore his robe in the Courtroom (N.T. 1057).

178. Mr. Yannuzzi confirmed that Mr. Tidd had the temperament a judge should have, and he never heard Mr. Tidd use curse words or obscenities to staff, litigants or officers (N.T. 1057).

179. Mr. Yannuzzi indicated he never saw David Tidd do work at the counter, but only in his Courtroom (N.T. 1058).

180. Mr. Yannuzzi confirmed that during arraignments, Mr. Tidd would always advise the defendants of all their rights (N.T. 1058, 1059).

181. Mr. Yannuzzi defined Mr. Tidd as having the perfect temperament, stated Mr. Tidd was very fair, knew the Rules of Evidence and applied the Rules. Mr. Yannuzzi stated he enjoyed appearing before Mr. Tidd (N.T. 1061).

182. Attorney John Waldron, an experienced lawyer from Lehigh and Northampton County, testified (N.T. 1062, 1063). He confirmed that all hearings in Mr. Tidd's District Court were conducted in the Courtroom and Mr. Tidd wore his robe. He also confirmed Mr. Tidd had good demeanor and treated everyone fairly (N.T. 1064, 1065).

183. Mr. Waldron testified he never saw Mr. Tidd abuse his staff or speak ill of them. He indicated the staff seems to get along well with Mr. Tidd (N.T. 1065, 1066).

184. Mr. Waldron indicated Mr. Tidd would advise criminal defendants who were waiving their preliminary hearing of all their rights (N.T. 1067). He stated Mr. Tidd would always advise the defendants of their rights (N.T. 1068).

185. Mr. Waldron confirmed Mr. Tidd's good reputation as a truthful and honest person and as a peaceful and law abiding person (N.T. 1069, 1070).

186. Mr. Waldron described Mr. Tidd as a hard-working, honest judge (N.T. 1070).

187. Mr. Waldron, who has practiced throughout the state, testified that many District Judges do things informally at their counter (N.T. 1070, 1071).

188. Erv McLain, Esquire testified (N.T. 1072). He had been practicing law for 34 years. Mr. McLain knew David Tidd when he was a practicing lawyer and also appeared numerous times

over the last seven years in Mr. Tidd's Courtroom (N.T. 1073, 1074).

189. Mr. McLain confirmed that Mr. Tidd always wore his robe in the Courtroom (N.T. 1075, 1076).

190. Mr. McLain confirmed Mr. Tidd's good demeanor to officers and staff and stated Mr. Tidd was always courteous to parties and displayed good judicial demeanor on the bench as well as good judicial knowledge (N.T. 1076).

191. Mr. McLain testified that in his experience even pleas were handled in the Courtroom (N.T. 1077).

192. Mr. McLain confirmed for preliminary hearings and preliminary arraignments, Mr. Tidd would fully advise the defendant and provide the defendant documents (N.T. 1078, 1079).

193. Mr. McLain indicated he has been in many District Courtrooms and Mr. Tidd's Courtroom was run the same as all the others (N.T. 1080).

194. Mr. McLain confirmed Mr. Tidd's good reputation in the community as a peaceful and law abiding person and as a truthful and honest person. He stated Mr. Tidd is also someone with good judicial temperament (N.T. 1081).

195. Attorney Christopher Spadoni, who has been practicing law for 41 years, testified (N.T. 1180). He testified he was in Mr. Tidd's Courtroom many times over the years (N.T. 1183,

1184). He confirmed Mr. Tidd always wore his robe in the Courtroom (N.T. 1184).

196. Attorney Spadoni's experience with Mr. Tidd was primarily in the Courtroom and waivers of preliminary hearings were done in the Courtroom while Mr. Tidd was wearing his robe (N.T. 1185). He described Mr. Tidd's judicial demeanor as appropriate and professional. He never heard Mr. Tidd use obscenities or curse words and never observed any problems with Mr. Tidd interacting with his staff (N.T. 1186).

197. Attorney Spadoni confirmed Mr. Tidd's excellent reputation in the community as a truthful and honest person and as a peaceful and law abiding person (N.T. 1186, 1187).

198. Attorney Spadoni confirmed that other judges in the County do things at the counter also (N.T. 1188).

199. Police Officer David Roxberry testified (N.T. 1191). Officer Roxberry worked for 26 years for Lower Saucon Police Department and, in fact, had been a former client of David Tidd (N.T. 1191,1192).

200. Officer Roxberry testified he had appeared once or twice a month in Mr. Tidd's Courtroom (N.T. 1193). Mr. Roxberry confirmed all hearings in the Courtroom were held while Mr. Tidd was wearing his judicial robe. Mr. Tidd would instruct people and give them fair hearings. He would explain things to the litigants (N.T. 1193, 1194).

201. Officer Roxberry confirmed if there was not a trial, then sometimes Court business would be done at the counter. He indicated there were times when Mr. Tidd would be wearing his robe at the counter, and at times he would not (N.T. 1194).

202. Officer Roxberry noted Mr. Tidd treated everyone equally. He indicated Mr. Tidd had a good demeanor and cared about people (N.T. 1195, 1196).

203. Officer Roxberry never saw Mr. Tidd demean or mistreat his staff (N.T. 1196).

204. Officer Roxberry confirmed Mr. Tidd's excellent reputation in the community as a truthful and honest person, and as a peaceful and law abiding person (N.T. 1197, 1198).

205. Michael Moyer, Esquire testified. He has been practicing law since 1977, some forty years (N.T. 1205). Mr. Moyer indicated when he was in Mr. Tidd's Courtroom, Mr. Tidd was wearing a robe at all times. Mr. Moyer indicated Mr. Tidd's demeanor was excellent and professional and he never saw Mr. Tidd scream or yell at litigants or attorneys, and never heard curse words. He also indicated that Mr. Tidd's interaction with his staff appeared normal (N.T. 1207, 1208).

206. Mr. Moyer indicated there was Court business conducted at the counter involving waivers and pleas. Sometimes Mr. Tidd would wear his robe at the counter and other times he would not (N.T. 1209).

207. Mr. Moyer confirmed that Mr. Tidd always advised people of their rights at preliminary hearings or waivers (N.T. 1210).

208. Mr. Moyer confirmed Mr. Tidd's excellent reputation as a peaceful and law abiding person and truthful and honest person in the community. He also indicated that Mr. Tidd, as a judge, was very fair to both sides (N.T. 1210, 1211).

209. Attorney George Heitzman, who has been practicing law for 45 years in Northampton County, testified (N.T. 1237). Mr. Heitzman appeared 10 to 12 times a year in Mr. Tidd's Courtroom. He confirmed in the Courtroom, Mr. Tidd did his hearings and he would always wear his judicial robe. Mr. Heitzman confirmed that Mr. Tidd's demeanor was very professional (N.T. 1239, 1240).

210. Mr. Heitzman confirmed that at preliminary arraignments and waivers of preliminary hearings, Mr. Tidd fully explained all the rights to the various criminal defendants (N.T. 1240, 1241).

211. Mr. Heitzman's experience with Mr. Tidd was if there was going to be a waiver or a plea agreement, sometimes it was done at the counter and sometimes it was done in the Courtroom. His recollection was that Mr. Tidd normally wore his robe at the counter and always in the Courtroom (N.T. 1241, 1242).

212. Mr. Heitzman indicated Mr. Tidd treated his secretaries and clerical staff well and never saw Mr. Tidd mistreat his staff (N.T. 1242).

213. Mr. Heitzman contradicted Brenda Anthony's testimony. Brenda Anthony had been asked whether the current judge she works for, Judge Hawk, ever does business at the counter, which she denied. Mr. Heitzman confirmed Judge Hawk regularly conducts matters at the counter and did not wear a robe when he was conducting matters at the counter, such as waivers of D.U.I.'s and things of that nature (N.T. 1243, 1244).

214. Mr. Heitzman confirmed Mr. Tidd's excellent reputation in the community as a truthful and honest person and peaceful and law abiding person (N.T. 1244).d

215. Mr. Heitzman indicated Mr. Tidd was very professional and very helpful to people and Mr. Tidd many times would tell people to get a lawyer (N.T. 1245).

216. Police Officer Matthew Andree of the Hellertown Police Department testified. He testified he had been in Mr. Tidd's Courtroom frequently over the years (N.T. 1261, 1262).

217. Officer Andree confirmed that Mr. Tidd always held contested hearings in his Courtroom and always wore his judicial robe (N.T. 1262).

218. Officer Andree confirmed that Mr. Tidd would only do business at the counter that was informal, such as waivers, and

Mr. Tidd did not normally wear a robe at the counter (N.T. 1262, 1263).

219. Officer Andree confirmed Mr. Tidd's excellent demeanor with the police and litigants. He indicated Mr. Tidd treated everyone with respect and fairness (N.T. 1263).

220. Officer Andree saw Mr. Tidd interact with his staff and saw him do so respectfully and honestly (N.T. 1264).

221. Officer Andree confirmed Mr. Tidd's handling of matters in his Courtroom was consistent with the other District Judges in Northampton County (N.T. 1266). Officer Andree confirmed that other District Judges conducted informal business, such as pleas and agreements, at the counter. He confirmed that other judges did not wear their robes at the counter. He confirmed that Northampton County District Judges are still doing things at the counter without wearing their robes, even as of the time of the hearing (N.T. 1267).

222. Police Officer Thomas Louder, who has been a police officer for 17 years and is currently with Lower Saucon Police Department, testified. He had been in Mr. Tidd's Courtroom over the years (N.T. 1277). According to his testimony, there was a stipulation that his testimony and Christopher Synder's testimony would be that Mr. Tidd always wore his robe in the Courtroom and had contested hearings in the Courtroom, and did

negotiated pleas at the counter and Mr. Tidd's demeanor was always good (N.T. 1278).

223. Attorney Timothy Prendergast testified that he has been practicing now for fourteen years (N.T. 1279, 1280). He confirmed Mr. Tidd's excellent reputation in the community as a truthful and honest person and as a peaceful and law abiding person (N.T. 1281). He indicated when he appeared before Mr. Tidd, Mr. Tidd always treated the litigants with respect. Mr. Prendergast confirmed the contested hearings were in the Courtroom. He stated he never heard Mr. Tidd mistreat his staff or curse or scream (N.T. 1281, 1282).

224. Eric Huggler, an arbitrage trader who has known David Tidd for 33 years, testified. There was a stipulation he would testify to Mr. Tidd's excellent reputation in the community as a truthful and honest person and peaceful and law abiding person (N.T. 1286, 1287).

225. Christopher Snyder testified. He was the Fire Chief for twenty one years in Lower Saucon Township. He was also the Animal Control Officer. He testified he had appeared in Mr. Tidd's Courtroom and liked him so much, he helped Mr. Tidd in his reelection. Mr. Snyder indicated he was always treated fairly (N.T. 1289).

226. The testimony of Lisa Levan, Diane Kale, Amber Glass, Traci Drayton, Brenda Anthony and Cassandra Bettler cannot be

accepted at a clear and convincing level. All of these persons misled the Court by saying Mr. Tidd did not wear his robe in the Courtroom, and did contested hearings at the counter. Further, all of their testimony was disputed in that Deborah French indicated there was nothing wrong with doing waivers and pleas at a counter and there was no requirement for a robe at the counter. All of them were refuted on the Jim Burke matter by Northampton County Controller Stephen Barron, who clearly indicated they were misled and were wrong in stating that Mr. Tidd shifted the cost from Mr. Burke to the County of Northampton. Mr. Barron absolutely and totally refuted their testimony. Also, Brenda Anthony and Cassandra Bettler and others lied in that Ms. Anthony, in fact, was working with Mr. Tidd's political opponent during pertinent times, as discovered from the memo of the Judicial Conduct Board. Numerous witnesses were presented by Mr. Tidd, including his own testimony that all hearings that were contested were in the Courtroom, he always wore his robe in the Courtroom, only negotiated matters were at the counter, and sometimes he wore his robe and sometimes he did not. There was nothing wrong with that per Deborah French. All the lawyers testified, as did Mr. Tidd, and the police officers he presented, that he did warn people of their rights and kept them advised. The officers presented by the Judicial Conduct Board agreed that Mr. Tidd had good judicial demeanor.

Detective Dattilio was not able to be specific in much of his testimony.

227. All testimony concerning conflict of interest was refuted by Mr. Tidd and the witnesses. Mr. Tidd had a system for conflicts. He never took advantage or used people from his judicial District Court to get business. Anytime he discovered a conflict, he immediately recused himself. He sought advice regularly from the Minor Judiciary Ethics Committee.

228. Mr. Tidd did nothing wrong with Mr. Burke. He only as a matter of courtesy had his staff telephone Mr. Burke to come in and pay when he had outstanding tickets, or else a warrant would be issued.

229. At times on the videos where Mr. Tidd was angry were all explainable in that he was very ill on one occasion, just having had a major lung operation. On the second occasion, he had been told his staff was feeding information to his political opponent (which later turned out to be true). The third was the day the staff, against his orders, scheduled him for Primary Election Day. The fourth was when Mr. Tidd was upset at Ms. Bettler because she would not answer him properly. Mr. Tidd apologized for his conduct on these selectively culled videos.

230. The judicial staff, starting in 2011, kept regular notes and records on Mr. Tidd and he was never told about that. The Court staff and the Court Administrator's Office never told

him. He was never given a chance to change and reform. Mr. Tidd was at a great disadvantage trying to defend matters five, six, seven years later. Further, the staff only saved four videos out of tens of thousands of hours of video. The staff did not have permission to do so and only saved those they wanted to save. All the other videos would have exonerated Mr. Tidd.

231. Mr. Tidd never retaliated against any staff member. His request to have them transferred was made when he discovered they were not being loyal to him and were not following his instructions.

232. The Court finds no retaliation as listed in paragraphs 8 through 20.

233. The Court finds no improper demeanor by Mr. Tidd as listed in paragraphs 22 through 59.

234. The Court finds no ex parte communications as listed in paragraphs 60 through 83.

235. The Court finds no special consideration is listed in paragraphs 84 through 108.

246. The Court finds there was no failure to recuse by Mr. Tidd as listed in paragraphs 109 through 119.

247. The Court finds no failure to accord full right to be heard as listed in paragraphs 120 through 152.

248. The Court finds no conflict of interest in the bankruptcy matters and no prioritization of his legal business over the court business as listed in paragraphs 153-342.

249. The Court finds no failure to wear judicial robes as found in paragraphs 244 to 248.

250. The Court finds no disregard of dignity of the judicial robe as found in paragraphs 249 to 251.

251. The Court finds the following charges were not proven by clear and convincing evidence and discharges them:

- a.) Count One - Retaliation;
- b.) Count Two - Improper Demeanor;
- c.) Count Three - Ex Parte Communication;
- d.) Count Four - Special Considerations;
- e.) Count Five - Failure to Recuse;
- f.) Count Six - Failure to Accord Full Right to be Heard;
- g.) Count Seven - Conflict of Interest;
- h.) Count Eight - Failure to Prioritize Court Business;
- i.) Count Nine - Failure to Wear a Robe;
- j.) Count Ten - Disregard of Dignity of the Robe;
- k.) Count Eleven - Constitutional Violation of Article V, Section 17(b) of violating the Rules - no violation.
- l.) Count Twelve - Constitutional Violation of

Article V, Section 18(d)(1) of the Pennsylvania Constitution of conduct prejudicial to the administration of justice - no violation.

m.) ~~Count Thirteen - Constitutional Violation of Article V, Section 18, bringing the judicial office into disrepute - no violation.~~

251. The Court orders dismissal of all charges against David Tidd.

V. ARGUMENT

A.) The Judicial Conduct Board has failed in its burden of proof by clear and convincing evidence and all charges should be dismissed, and all counts dismissed.

The above case is really tragic. David Tidd, an auto mechanic who supported himself through college and law school and attended law school late in life, practiced law for approximately nine years before he had the privilege of being elected a District Judge in Northampton County. As a District Judge, he was in his judicial office essentially in the morning and early afternoon, and then went to his law office in the late afternoon and evening. He limited his law practice to federal bankruptcy cases to avoid any conflicts.

The evidence was unrefuted that he handled his judicial case load in a proper fashion and was current on his case load. The unrefuted evidence was that he had an excellent reputation in the community as a truthful and honest person and as a peaceful and law abiding person. The evidence of numerous police officers and numerous lawyers all reflected the fact that Mr. Tidd had good judicial demeanor, treated everyone fairly and was knowledgeable in the law.

In all of these proceedings, other than Ms. Zeigler/Ms. Rebyneck, there was never any complaint by any litigant against Mr. Tidd. There was never any litigant who came forward and

said that Mr. Tidd treated them unfairly. In fact, there was never any lawyer who said that.

The tragedy was seen by the fact that Mr. Tidd finally resigned on July 25, 2016. This was after he was reelected by an overwhelming majority in his District. He resigned because he could not take the pressure anymore with the news articles and rumors because of the present charges. Since then, Mr. Tidd has attempted to practice law again, but had to close down his law practice because of the adverse publicity of these judicial complaints. This is a classic story of a man who was a good judge, worked hard to get there, who has now been destroyed due to accusations that are truly unfounded and unwarranted.

The pertinent evidence has been summarized in great detail with citation to the seven days of trial record in the Findings of Fact and Conclusions of Law section of this Brief. The evidence will not be reiterated, but will be incorporated by reference.

What strikes one in reading this record is the unfairness. Since Mr. Tidd became a judge in 2010, his secretaries started keeping records on him. For two years they communicated with Deborah French, the Court Administrator. After that, their communication was sporadic in terms of their complaints, but they maintained the contact. They also selectively pulled four

segments from the video in the District Court. This was done without permission or authorization or authority.

During this time period, Mr. Tidd was misled into thinking his staff were his friends. He would often come in early and he would sit in the secretarial area because of the physical nature of his Courtroom, as he described during his testimony. The Courthouse was very small with not much security. Mr. Tidd would often do things at the counter because there was little room and prisoners were often in the Courtroom. But never was there a contested hearing at the counter and Mr. Tidd always had his robe on in the Courtroom, and many times at the counter. The counter was reserved usually for waivers and negotiated pleas.

Mr. Tidd had his law office several miles away. He would handle his judicial hearings in the morning and early afternoon. He would go to his law office in the mid-afternoon. The schedule, as shown by his office and court calendars, included hearings and court business in the morning. Mr. Tidd would go to his law office in the afternoon between 2:00 and 4:00, and see his clients. He was always available to come back. Most of his hearings were in the morning.

In 2016 when the present judicial complaint was presented, many of the allegations were old, from 2010, 2011 and 2012. There were few specifics. Mr. Tidd was at a great disadvantage

by having an almost 500 paragraph complaint dropped on him after years had passed without any knowledge or warning.

No one during those years, after the two meetings in 2011 and 2012 with Judge McFadden, ever thought to sit down with Mr. Tidd and go over what he was doing wrong or correct him. Ms. French never did so. Judge McFadden never did so and Judge Barratta obviously never did so.

All of the complaints are in the context of divided loyalty. The clerical staff and secretaries did not see Mr. Tidd as their boss. Everything he did was reviewed with Deborah French by the staff. The staff went behind his back to Ms. French with numerous complaints that are now seen as false. Even with the constables, his staff would not follow Mr. Tidd's orders to shift the warrants to the new constable he wanted to use. Instead, the staff went to Ms. French. No judge could survive this kind of unfair scrutiny.

Further, the Judicial Conduct Board's handling of the Rebyneck memo was unsettling. That memo showed that Brenda Anthony was communicating with Mr. Tidd's political opponent. Brenda Anthony denied that, as did the others. But, the memo clearly showed she lied. The Judicial Conduct Board brought these present allegations and emphasized Mr. Tidd's bad demeanor about yelling at Brenda Anthony and others for having contact with the other side and listing cases on Election Day. But the

Judicial Conduct Board at all times had that memo and knew the staff was not telling the truth. The memo only came in discovery in late 2016. The memo was never given to Judge Barratta.

Laches and statute of limitations has been raised. It was denied by the conference judge. But there are concerns about the statute of limitations since normally it is a four year statute of limitations. The Judicial Conduct Board Rules, under Rule 15, clearly set a four year period.

"Except where the Board determines otherwise for good cause, the Board shall not consider complaints arising from acts or omissions occurring more than four years prior to the date of the complaint, provided however, that when the last episode of an alleged pattern of reoccurring judicial misconduct arises without the four year period, the Board may consider all prior acts or omissions related to such an alleged pattern of conduct." (See Rule 15 of the Judicial Conduct Board Rules).

A review of the complaint reveals many matters that were in 2010, 2011 and 2012. None of these were revealed during the four year time period and came long after. One of the concerns is no one had a chance to reform their conduct even if something was wrong. It is very unfortunate that this four year rule is treated so loosely, particularly under the facts of this particular case.

There is also concern that once Mr. Tidd retained counsel in 2015 (Craig Simpson), and then in February of 2016 present counsel, Samuel C. Stretton, Esquire, the Judicial Conduct Board

should not have been regularly speaking with his employees and checking up on Mr. Tidd. This is sort of like the prisoner in the cell with a criminal defendant who is contacting the District Attorney and telling everything that the prisoner does when they are represented by counsel. (See Rule 4.2 of the Rules of Professional Conduct). I am not saying that judicial counsel did anything wrong, but it does create a very difficult scenario for Mr. Tidd when he was still the judge and his staff and the Judicial Conduct Board were communicating regularly while charges were filed. Judicial Conduct Board proceedings are quasi criminal in nature. [In re Berkhimer, 930 A.2d 1255 (Pa., 2007)].

Also, in reviewing these matters, Mr. Tidd presented excellent character testimony. In Judicial Conduct proceedings, character testimony is considered extremely important and could be the basis for a finding of no violation. This was held by the Pennsylvania Supreme Court in the case of In the Matter of Sylvester, 555 A.2d 1202 (Pa., 1989). Discussing the character testimony in the Sylvester matter, the Supreme Court noted as follows:

"Primarily we note that even though charges and violations of judicial Canons are not criminal in nature, the teaching of Commonwealth v. Castellana...is instructive to the value of character evidence to an accused...when on trial for an offense...is allowed to introduce evidence of his good reputation in any respect, which has proper relation to the subject matter of the charge at

issue...such evidence may of itself prove sufficient to acquit the accused or it may create a reasonable doubt, thus acquit...But to create or to clear up doubt is not the only office of evidence of good character...It is substantive evidence to be weighed and considered in connection with other evidence in the case...This kind of proof is allowed to the defendant...because...when accused...may be able to produce no evidence except his own oath and proof of good character to exculpate himself from the charge against him...Here the respondent could offer no evidence except her oath and proof of good character. This proof of her unblemished and outstanding reputation for truthfulness, honesty, integrity and lack of avariciousness gives vivid meaning to the Solomonic wisdom that a good name is rather to be chosen than great riches. Proverbs 22-1." Id 1207, 1208.

The unrefuted testimony of the numerous lawyers and lay people who testified on behalf of Mr. Tidd as to his excellent reputation in the community for all the character traits at issue, and also to his good demeanor and fairness, is extraordinary and should be credited.

The burden of proof of the Judicial Conduct Board is that of clear and convincing evidence, which is established by the Pennsylvania Constitution, Article V, Section 18(b)(5).

"The subject of the charges shall be presumed innocent in any proceeding before the Court, and the Board shall have the burden of proving the charges by clear and convincing evidence." [See Article V, Section 18(b)(5) of the Pennsylvania Constitution].

That burden has not been met here. Just looking at an overview of the Complaint clearly demonstrates to the contrary. Under Section c of paragraphs 60 to 81 there is an allegation of ex parte communications. But where was the evidence? There

were no videos of these ex parte communications. There were no police officers other than Officer Gunshore and he was confused because the case involved a preliminary hearing waiver for the defendant charged with D.U.I. to apply for A.R.D. That certainly was not ex parte communication. The police officers presented by Mr. Tidd all denied any ex parte communication. Detective Dattilio only referenced one case in over seven years. Mr. Tidd fully testified that he had no ex parte communications. He would always ask litigants when they came in what they were going to do and then he would have the litigants talk to the police officer. If the officer was late, when the officer would call in, Mr. Tidd would try to have the officer and the person work on a resolution. The evidence does not show any pattern for any ex parte communications.

Similarly, special consideration charges found in paragraphs 84 through 108 essentially involved James Burke, the lawyer. The evidence does not support any finding of special consideration. The secretaries tried to say that they were helping Mr. Burke not have to pay constable fees, but that was totally refuted by the Controller of Northampton County, Mr. Barron. No special consideration was given to Mr. Burke. As a matter of courtesy, if a warrant was about to be issued, a call would be made to Mr. Burke and he either came in and paid it, or the warrant would be issued. There is nothing wrong with that.

If the lawyer does not appear on time, judges who know the lawyers will have their staff call the lawyer's office and tell them to go over to Court. The evidence does not show anything amiss.

Under subsection (e), involving the charges of failure to recuse referenced in paragraphs 109 through 119 again involves Mr. Burke. Mr. Tidd testified he knew Mr. Burke, but there was no special relationship. Mr. Tidd noted that he knew almost every lawyer in the County and if that was the case, he would have to recuse himself with every lawyer. There were no requests for recusals and no one complained. Again, those charges have not been made out.

Under subsection (f), involving the charge of failure to accord the right to be heard referenced in paragraphs 120 through 152, all of that was refuted. Mr. Tidd testified he always gave persons the right to be heard. Every lawyer so testified, as did many police officers and Mr. Tidd. Several of these paragraphs involve holding trials at the counter. Other than the judicial staff, there were no witness who testified that Mr. Tidd did the trials at the counter. Every lawyer and police officer said the trials were in the Courtroom. They all said Mr. Tidd wore the robe in the Courtroom. Further, the testimony of the secretaries was totally refuted by the Court Administrator, Deborah French, who clearly indicated there was

nothing wrong with conducting waivers and informal matters at the counter. Also, a number of lawyers and Mr. Tidd testified that it was a routine practice with other District Judges in Northampton County to handle matters at the counter. This was a routine practice for many other District Judges.

In terms of the charges involving conflict of interest and prioritization of court business under subsection (g) referenced in paragraphs 153 through 243, there was just no evidence to support the allegations. Mr. Tidd was very clear how he separated his judicial business from his law business. He indicated he was very careful and did the best he could in terms of identifying conflicts. Sometimes there would be things he would miss because of default judgments, etc., and others where he was not aware the judgment came out of his Court. As soon as he found out, he would recuse himself. Mr. Tidd also sought ethical advice and attempted to follow it from the Minor Judiciary Ethics Committee. There were no witnesses who came in to complain or testify other than Ms. Rebyneck, whose situation was fully explained by Mr. Tidd on cross-examination. Mr. Tidd testified how his office calendars, which he introduced, clearly showed the source of the business. Business was not obtained from people with judgments in District Court. The records clearly showed they were from the Yellow Pages or other areas. Mr. Tidd also had an associate who handled many of the

bankruptcy matters for him. He could not have his judicial staff do conflict checks for him because that would be prohibited. He could not use his judicial staff to do conflict checks for his law office. There was no evidence that Mr. Tidd intended to prioritize his legal business over his court business and take advantage of that. It is just not in this record and it doesn't reflect that. In fact, he was in his judicial office until usually mid-afternoon. Only in the late afternoon or evening did he go to his law office.

Under subsection (8), failure to wear a judicial robe referenced in paragraphs 244 to 248, the evidence was clear Mr. Tidd always wore the robe in the judicial Courtroom. Every lawyer confirmed the same and every police officer confirmed the same. Only the judicial staff employees stated to the contrary and their testimonies were just not credible. Their testimonies were refuted by a number of trial lawyers, police officers and other people.

Further, their testimony was refuted on many key points. Brenda Anthony, Mr. Tidd's personal secretary, totally lied that she had no contact with Mr. Rebyneck, Mr. Tidd's political opponent. She lied during her testimony before the Court. But, in fact, she did have contact with Mr. Rebyneck, as seen by Mr. Rebyneck's statement, which was in the memo of the Judicial Conduct Board. The misconduct of the judicial staff is seen

even worse because Brenda Anthony then scheduled Mr. Tidd for Court on Election Day. Her blatant lies about not having contact with or helping Mr. Tidd's political opponent made her testimony totally incredible. Bettler was no better. Ms. Bettler and Ms. Anthony were the ones who lied about the constable fees being taken from Mr. Burke and placed on the County. This was emphatically refuted by the Northampton County Controller. All of the testimony of the judicial staff about matters being handled at the counter, being wrong and something no other judge was doing it, was false. Lawyers and police officers said numerous judges in Northampton County and elsewhere conducted informal matters without a robe at the counter. The staff all lied about that. Ms. Anthony again lied when she was specifically asked about the counter work performed by the judge she is working for now, she denied he did any counter work. Attorney George Heitzman testified the judge Ms. Anthony currently works for does counter work all the time. Further, Ms. French said it is okay and there is nothing wrong with judges handling non-trial matters at the counter. Deborah French said it was okay to do counter work and Mr. Tidd was never told to the contrary. Despite that, the Judicial Conduct Board put on hours of testimony of Mr. Tidd at the counter.

Under subsection (i), the charge of disregard of the dignity of the judicial robe referenced in paragraphs 249

through 251 makes absolutely no sense. Mr. Tidd had Crohn's Disease and was feeling ill and did not want to take a lot of medicine. To relieve his discomfort, Mr. Tidd rested on the floor. Since it was in the summer and he didn't have a winter coat, he put his robe under his head. Ms. Bettler walked in and saw him. She then later took a photograph of Mr. Tidd's robe on the floor. There was no disrespect when Mr. Tidd, in the privacy of his judicial office, used his robe to help him feel better. It just makes no sense that such a charge would be brought and this charge certainly is totally refuted by Mr. Tidd's testimony that there was no intent to disrespect the robe.

The improper demeanor charge under section (b) referenced in paragraphs 22 through 59 are not warranted. All the lawyers and police officers said Mr. Tidd did not raise his voice, did not use obscenities and they never saw him mistreating his staff. There were four videos. Each of the videos were only a minute or two over a seven year period. These were selectively taken. But there was no violation in the context of what happened. On Election Day, clearly Mr. Tidd had a right to be angry when Ms. Anthony scheduled Court hearings. This is the same Ms. Anthony who lied and who we now know was working with his opponent. Watching her in the video appearing so self-

righteous is sickening now that the truth of her contacts with Mr. Tidd's political opponent are known.

The video of Mr. Tidd when he came back to work after only two weeks of rest after a major lung operation because the County would not give him coverage and he was not feeling well, clearly explains there was no ill intent. Mr. Tidd was in a lot of pain and discomfort. He was grumpy and he admits he was wrong. But, this should not be the subject of judicial discipline.

The video when Mr. Tidd yelled at Ms. Bettler because she said, "uh huh", was a one-time matter when Mr. Tidd had been upset with her because she would never respond to him or would always answer, "uh huh". Her testimony, which has been summarized, clearly shows Ms. Bettler's dishonesty and deceitfulness. She was the one who took the tapes and recorded just four of them without anyone's permission. She was the one who was keeping notes and records on Mr. Tidd for years without telling him. She was working against him and she had her own agenda.

All of the staff and secretaries were questioned in detail. Mr. Tidd lent money to three of them when they were in distress. He lent \$200.00 to Brenda Anthony's daughter, \$750.00 to Brenda Anthony, and Ms. Bettler received monies when she needed them. Mr. Tidd thought he had a good relationship with all of these

people and he had no idea that they were dishonest and were working against him. Their testimony should not be accepted, particularly at the clear and convincing evidence standard.

Under subsection (a), the charge of retaliation, referenced in paragraphs 8 through 21, was clearly refuted by the evidence. Although there was a suggestion in the charge there was retaliation against police officers, none of that evidence was presented. The suggestions there was retaliation because of Election Day are absurd. Mr. Tidd testified he could not trust Ms. Anthony and asked that she be transferred. Certainly if one has a personal secretary, they have to be able to trust them. If they can't, that is not retaliation to ask to have that secretary transferred. In fact, there was no retaliation. Mr. Tidd was distraught when he found out his staff had been giving information against him for years when he found that out in 2016 after the initial complaint was filed. He certainly expressed that he was upset and that is certainly to be expected under the circumstances. When he found that his employees were not honest, for instance when he found out the secretaries were not complying with his request on constables, he had every right to ask for the transfer. That was not retaliation at all and it is ridiculous to consider that to be retaliation. For instance, in paragraph 9, it is noted he locked the doors and yelled at the staff. That was the day he walked in because he had heard

rumors from a police officer that his staff was cooperating with his political opponent. He did not lock the door. He came in and turned the knob because he wanted to talk to the staff without the public coming in. The staff could have walked out if they wished because there was a door right behind them. There were no threats at all. Certainly a boss has a right to confront his staff when he finds evidence that they were being disloyal. At the time, he had no more evidence other than the hearsay testimony of the police officer. Later, during the judicial conduct hearings, the smoking gun evidence was found through the statement from Mr. Rebyneck that he did communicate with Brenda Anthony.

If someone is watching a judge 24-7 and keeping records for six years, there are going to be days the judge is irritated, the judge may raise his or her voice, the judge may have a bad day, but that is all in the scheme of things. This Honorable Court has to look at this record and see what, in fact, has been proven.

What has been proven and demonstrated is Mr. Tidd was a good judge. Excellent character testimony was presented. Numerous lawyers and police officers testified as to Mr. Tidd's proper handling of Court matters, his fairness and his treatment of all litigants. Although Detective Dattilio said Mr. Tidd did not explain things enough, Mr. Tidd said he did explain things

thoroughly and then gave a paper to the defendants setting forth their rights. The lawyers, witnesses and police officers confirmed that Mr. Tidd carefully provided information. How does the Judicial Conduct Board prove these points by clear and convincing evidence when their evidence was totally refuted?

As noted, the secretaries' testimonies cannot be accepted at the clear and convincing level. They all have been caught in numerous lies and acting very unfairly. Their testimony is not acceptable and should not be acceptable. If this kind of testimony is allowed, no judge is going to be safe.

Under count thirteen there are suggestions of disrepute. But there is absolutely not one iota of evidence of any disrepute under the Pennsylvania Constitution, Article V, Section 18(d)(1). For a finding of disrepute, there has to be universal disrepute.

"Even if a judicial officer's actions could reasonably result in a lessening of respect for the judge, it cannot be assumed that such actions would necessarily bring the judicial office into disrepute. In other words, one might say Judge Smith has failed to decide his cases and, therefore, has lost our respect. Such a finding would not sustain the Board's burden, for the Board must show that the disrespect arising from Judge Smith's actions extends to all judges. In other words, that the wrongful actions of a judicial officer are capable of bringing the judicial officer into disrepute is only the first step of the inquiry. The second step is that, in fact, universal disrepute resulted." [In re Smith, 687 A.2d 1229, 1239 (Pa. Ct. Jud. Disc., 1996)].

The Smith case resulted in no finding of disrepute. Mr. Tidd contends he did nothing wrong, but even if he did, there would be no finding of disrepute here.

David Tidd, by his counsel, Samuel C. Stretton, Esquire, respectfully asks this Honorable Court to find there are no violations and the evidence of violation have not been proved by clear and convincing evidence. Remove the tainted secretaries' testimony, all of whom have been refuted on key points, and there is no evidence. On the other hand, Mr. Tidd has presented a very different picture. He was a good, responsible judge. He did things quickly but fairly. His demeanor was good. He had an excellent character and reputation for truthfulness, honesty and peaceful and law abidingness. All the lawyers enjoyed being in his Courtroom. He explained things to litigants and treated everyone fairly. Almost every police officer and lawyer testified to that effect. Mr. Tidd explained everything in great detail during his credible testimony.

Any time when Mr. Tidd appeared irritated, there appeared to be good reasons, such as scheduling him on Election Day, finding out that your staff was working with his political opponent, being very ill and being forced to return to work after two weeks when he was supposed to remain home for 90 days. But, it must be noted in the videos, no curse words were used.

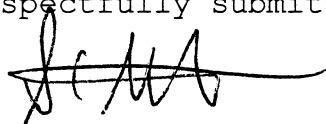
The lack of any criminal defendant or litigant to come in and testify speaks volumes. This case was all driven by staff who had their own agenda, were mean spirited and who, unfortunately, have been caught in serious and numerous lies.

Mr. Tidd respectfully requests this Honorable Court find no violations and adopt his Findings of Fact and Conclusions of Law.

VI. CONCLUSION

The Respondent, David Tidd, by his counsel, Samuel C. Stretton, Esquire, respectfully requests this Honorable Court dismiss all the charges since the Judicial Conduct Board has failed in its burden of proof by clear and convincing evidence to prove any violation.

Respectfully submitted,



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COMMONWEALTH OF PENNSYLVANIA
COURT OF JUDICIAL DISCIPLINE

IN RE: :
: :
David W. Tidd :
Former Magisterial : 3 JD 2016
District Judge :
Magisterial District 03-2-04 :
Third Judicial District :
Northampton County :

CERTIFICATE OF SERVICE

I hereby certify I am this date serving a copy of the foregoing Findings of Fact and Brief of the Respondent in the captioned matter upon the following persons in the manner indicated below.

Service by First Class Mail addressed as follows:

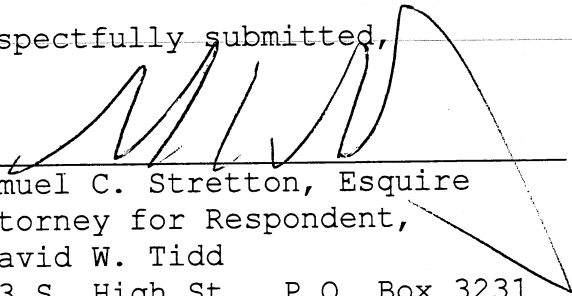
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