

COMMONWEALTH OF PENNSYLVANIA
COURT OF JUDICIAL DISCIPLINE

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JUDICIAL DISCIPLINE
OF PENNSYLVANIA

2015 AUG 14 P 3: 28

IN RE: :
: :
Joan Orié Melvin : No. 5 JD 12
Justice of the Supreme Court :
of Pennsylvania :

BEFORE: Honorable Timothy F. McCune, P.J.
Honorable John R. Cellucci
Honorable Robert J. Colville
Honorable John J. Soroko
Honorable David J. Shrager
Honorable David J. Barton

OPINION AND ORDER

OPINION BY PRESIDENT JUDGE McCUNE FILED: AUGUST 14, 2015

I. INTRODUCTION

Following a trial, ending on February 21, 2013, former Justice Joan Orié Melvin (hereinafter “Respondent”) was convicted of three felony counts for theft/diversion of services, a felony of the third degree, and of criminal conspiracy, also a felony of the third degree, as well as two misdemeanor counts.

Respondent was sentenced in the aggregate to three years of intermediate punishment (house arrest with electronic monitoring) followed by two years of probation with conditions.

Although Respondent initially took an appeal of the sentence she eventually filed a Praecipe to Discontinue that appeal on October 28, 2014.

An Amended Board Complaint was filed by the Judicial Conduct Board on January 13, 2015, alleging that Respondent had been convicted of felonies and an

Answer to the Amended Board Complaint was filed by her counsel on February 17, 2015. The Answer essentially admits the allegations of the Amended Complaint.

II. FINDINGS OF FACT

1. The Judicial Conduct Board is empowered by Article V, §18 of the Constitution of the Commonwealth of Pennsylvania to pursue charges alleging ethical misconduct on the part of judges, justices or magisterial district judges and to present the case in support of formal charges before the Court of Judicial Discipline.

2. Respondent, a former Justice of the Supreme Court of Pennsylvania, commenced her service on that court on January 8, 2010. She resigned from judicial service on May 1, 2013.

3. On May 18, 2012, based upon a Grand Jury Presentment, Respondent was charged with multiple felonies and misdemeanors.

4. On February 21, 2013, after a jury trial, Respondent was found guilty of the following crimes:

- Count 1: Theft/Diversión of Services (F3) (Value greater than \$2000);
- Court 2: Theft/Diversión of Services (F3) (Value greater than \$2000);
- Court 3: Theft/Diversión of Services (F3) (Value greater than \$2000);
- Court 4: Criminal Conspiracy (Theft/Diversión of Services) (F3);
- Court 5: Misapplication of Entrusted Property and Property of Government and Financial Institutions (M2) (Value greater than \$50);
- Count 7: Criminal Conspiracy (Tampering with Physical Evidence) (M2).

5. On May 7, 2013, The Honorable Lester G. Nauhaus sentenced Respondent and then on May 14, 2013, Judge Nauhaus resentenced Respondent as follows:

- Count 1: Theft/Diversions of Services (F3) - 1 year of house arrest with electronic monitoring; permitted to leave house only to attend church; \$15,000 fine.
- Count 2: Theft/Diversions of Services (F3) - No further sentence;
- Count 3: Theft/Diversions of Services (F3) - 1 year of house arrest to run consecutive to Count 1; \$15,000 fine;
- Count 4: Criminal Conspiracy (Theft/Diversions of Services) (F3) - 1 year of house arrest to run consecutive to Count 3; \$15,000 fine;
- Count 5: Misapplication of Entrusted Property and Property of Government and Financial Institution (M2) - 2 years probation to run consecutive to Count 4; \$5,000 fine.
- Count 6: Official Oppression (M2) - Nolle Prossed;
- Count 7: Criminal Conspiracy (Tampering with Physical Evidence) (M2) - 2 years probation to run concurrent to Count 5; \$5,000 fine.

Respondent was ordered to pay restitution of \$127,979.97.

6. On May 17, 2013, Judge Nauhaus issued a Corrected Amended Order of Sentence, which imposed some of the special conditions applicable to Count 1 to Counts 3, 4, 5, and 7. Judge Nauhaus also changed the condition of Count 1 that Respondent write letters of apology to “all of her staff, and Senator Orié’s staff who were victims” to “all of her staff, and Senator Orié’s staff.”

7. On May 20, 2013, Respondent filed a direct appeal in the Superior Court.

8. On September 27, 2013, Respondent filed an Application for Stay in the Superior Court requesting that the Court issue an order “staying the portion of her

sentence requiring her to write a letter of apology pending disposition of her appeal to [the Superior] Court.”

9. By Order dated November 6, 2013, the Superior Court granted Respondent’s Application for Stay.

10. On August 21, 2014, the Superior Court affirmed the judgment of sentence, but modified it to strike the requirement that Respondent write apology letters to members of the judiciary on a photograph of herself in handcuffs. She was, however, still required to write a letter of apology to members of her judicial staff and to every judge in Pennsylvania.

11. On September 22, 2014, Respondent filed a Petition for Allowance of Appeal and an Application for Stay of a Portion of Criminal Sentence in the Supreme Court.

12. By order dated October 7, 2014, the Supreme Court granted Respondent’s Application for Stay of a Portion of Criminal Sentence, staying her sentence in its entirety pending disposition of her Petition for Allowance of Appeal.

13. On October 28, 2014, Respondent filed a Praecipe for Discontinuance of her appeal to the Supreme Court.

14. By virtue of her convictions for Theft/Diversions of Services (3 counts) and Criminal Conspiracy (Theft/Diversions of Services), Respondent is a convicted felon.

III. DISCUSSION

Article V, §18(d)(1) of the Pennsylvania Constitution states that “ [a] justice, judge or justice of the peace may be suspended, removed from office or otherwise disciplined for conviction of a felony.” The conviction of a felony, of itself, provides the grounds for the imposition of discipline. *In re Conahan*, 51 A.3d 922 (Pa.Ct.Jud.Disc. 2012).

Additionally, Pa. Const. Art. V, §18(d)(3) states that a justice or judge convicted of misbehavior in office by a court, disbarred as a member of the bar of the Supreme Court or removed under this section [concerning *inter alia*, conviction of a felony] shall forfeit automatically his or her judicial office and thereafter be ineligible for judicial office.

Former Justice Orié Melvin has been convicted of four felonies and admitted that the appropriate sanction for a judicial officer convicted of a felony is removal from her judicial office (Answer to Amended Board Complaint at paragraph 20.)

IV. CONCLUSIONS OF LAW

1. Respondent has been convicted of four felonies and all direct appeals have ended.
2. The criminal convictions set forth above subject Respondent to discipline under Article V, §18(d)(1) and (d)(3) of the Pennsylvania Constitution.

V. SANCTION

Former Justice of the Supreme Court Joan Orié Melvin is HEREBY ORDERED removed from office and shall be ineligible for future judicial office.

Judge Mullen and Judge Panella did not participate in the consideration or disposition of this case.