

COMMONWEALTH OF PENNSYLVANIA
COURT OF JUDICIAL DISCIPLINE

IN RE:

William I. Maruszczak
Magisterial District Judge
Magisterial District Court 38-1-09
38th Judicial District
Montgomery County

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: No. 1 JD 18
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JUDICIAL DISCIPLINE
OF PENNSYLVANIA

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BEFORE: Honorable David J. Barton, P.J., Honorable David J. Shrager, Honorable Doris Carson Williams, J., Honorable Jeffrey P. Minehart, J., Honorable Michael J. Barrasse, J., Honorable Jazelle M. Jones, J., Honorable John H. Foradora, J., Honorable James C. Schwartzman, J.¹

OPINION BY JUDGE JOHN H. FORADORA

FILED: January 9, 2019

OPINION

Magisterial District Judge William I. Maruszczak (Judge Maruszczak) is the subject of a Complaint alleging four violations for his behavior in making aggressive statements towards acquaintances he discovered were supporting his opponents in a judicial election.

Judge Maruszczak and the Judicial Conduct Board agreed to submit this case to the Court of Judicial Discipline (Court) on a stipulated record. The Joint Stipulations agreed to by the parties and accepted by the Court as Findings of Fact are as follows:

1. From June 26, 1997, and continuing to the present, Judge Maruszczak has served as a duly elected Magisterial District Judge for Magisterial District Court No. 38-1-09 in Montgomery County, Pennsylvania.

2. As a duly elected Magisterial District Judge, Judge Maruszczak was at all times relevant hereto subject to all the duties and responsibilities imposed on him by the Constitution of the Commonwealth of Pennsylvania and

¹ The Honorable James C. Schwartzman did not participate in this Decision.

the Rules Governing Standards of Conduct of Magisterial District Judges (R.G.S.C.M.D.J.) adopted by the Supreme Court of Pennsylvania.

3. Based on information received by the Judicial Conduct Board throughout 2015 and 2016, the Board investigated Judge Maruszczak's conduct.

4. As a result of its investigation, and pursuant to Article V, § 18(a)(7) of the Constitution of the Commonwealth of Pennsylvania, the Board determined that there is probable cause to file formal charges against Judge Maruszczak in this Court.

5. During 2015, Judge Maruszczak was seeking reelection to his judicial seat.

6. Judge Maruszczak was challenged in the 2015 primary and general elections by Ian Kingsley, Esquire.

7. Marcene Rogovin (Mrs. Rogovin) is the widow of Charles Rogovin, one of Judge Maruszczak's former professors at Temple University Beasley School of Law.

8. Judge Maruszczak was acquainted with Mrs. Rogovin primarily by virtue of his friendship with her now-deceased husband.

9. At some point prior to or on May 19, 2015, the date of the primary election, Judge Maruszczak was told that Mrs. Rogovin was working for Ian Kingsley, Esquire, at the Saint Gertrude's Church polling place in Conshohocken, which was Mrs. Rogovin's home polling place.

10. Based upon this information, Judge Maruszczak travelled to the Saint Gertrude's polling place to speak with Mrs. Rogovin about her alleged support of his opponent.

11. When Judge Maruszczak arrived at the Saint Gertrude's polling place, he saw Mrs. Rogovin working there as a volunteer for the Democratic Party.

12. Judge Maruszczak approached Mrs. Rogovin and a group of other volunteers who were outside the polling place.

13. Judge Maruszczak accused Mrs. Rogovin of supporting his opponent.

14. When accusing Mrs. Rogovin of supporting his opponent, Judge Maruszczak used a raised voice and tone.

15. While accusing Mrs. Rogovin of supporting his opponent, Judge Maruszczak stated, in a raised voice and tone, that "This [meaning his office] is my livelihood!"

16. Judge Maruszczak told Mrs. Rogovin that he was going to call Mrs. Rogovin's husband, then living, and complain about her act of supporting Judge Maruszczak's opponent.

17. At that moment, Judge Maruszczak attempted to call Charles Rogovin with his cell phone, but did not reach him.

18. Judge Maruszczak left a voicemail message for Charles Rogovin, wherein he stated that Mrs. Rogovin was working against him and that she needed to stop doing so because Charles Rogovin was Judge Maruszczak's friend.

19. After the general election, Judge Maruszczak was informed that, on the day of the general election in Montgomery County, Mrs. Rogovin worked for his opponent.

20. On November 4, 2015, the day after the election, Judge Maruszczak left a voicemail on the Rogovins' home telephone.

21. Mrs. Rogovin transcribed the voicemail after playing it.

22. The voicemail stated the following:

Charlie, this is Bill Maruszczak. It is Wednesday, November 4th, a little after nine. Marcy worked against me yesterday, and I still won the election. Next week, after I return from vacation, I will hold a press conference and charge that Marcy covered up an accident when [former Philadelphia Municipal Court Judge] Joe Waters visited your house earlier this year. She started this, and I am going to finish it!

23. Robert DeFelice is a former member of the Montgomery County Republican Committee.

24. Judge Maruszczak and Mr. DeFelice were acquainted as casual friends for approximately 20 years.

25. Until approximately May 2015, Judge Maruszczak and Mr. DeFelice would see each other in public around the Montgomery County area and speak to each other.

26. In approximately February 2015, Mr. DeFelice saw Judge Maruszczak at a restaurant and told him about a dispute in which he was involved with Infiniti of Ardmore regarding an automobile warranty issue.

27. Judge Maruszczak told Mr. DeFelice to come to his court office and that he would draft a sample civil complaint against Infiniti of Ardmore for Mr. DeFelice to copy and file in appropriate district court in Ardmore.

28. Mr. DeFelice accepted Judge Maruszczak's offer of assistance at some point in February 2015.

29. Based upon Judge Maruszczak's drafting suggestions, Mr. DeFelice filled out and filed a civil complaint form at Magisterial District Court 38-1-07 on March 3, 2015, which was docketed at MJ-38107-CV-22-2015.

30. Mr. DeFelice then represented himself at trial, but did not prevail.

31. Judge Maruszczak went to Magisterial District Court 38-1-07 with Mr. DeFelice, but he did not enter the courtroom during the trial.

32. Shortly after the trial, Mr. DeFelice spoke with Judge Maruszczak on the telephone.

33. Mr. DeFelice was greatly upset, and he told Judge Maruszczak that he was considering appealing the matter.

34. Judge Maruszczak offered to refer Mr. DeFelice to a friend who was an attorney to assist him in the appeal process.

35. Mr. DeFelice declined the offer of assistance.

36. Because Mr. DeFelice was politically connected in the area, Judge Maruszczak made a number of attempts to secure his assistance in the 2015 primary election.

37. In the months preceding the 2015 primary election, Judge Maruszczak left two notes in Mr. DeFelice's mailbox seeking assistance; one of these notes offered to help Mr. DeFelice with his "situation," meaning his appeal.

38. Mr. DeFelice did not respond to any of Judge Maruszczak's notes.

39. During the week before the primary election, Judge Maruszczak made numerous attempts by phone and in person to contact Mr. DeFelice.

40. Mr. DeFelice did not respond to Judge Maruszczak's contacts.

41. At some point during the run up to the primary election, Judge Maruszczak was informed that Mr. DeFelice was supporting his opponent by putting up yard signs and other activity.

42. On May 19, 2015, the date of the primary election, Judge Maruszczak travelled to the Upper Merion High School polling station to speak with Mr. DeFelice, who he suspected would be there.

43. Judge Maruszczak saw Mr. DeFelice at the polling station and approached him in public with others present in the general vicinity.

44. Judge Maruszczak addressed Mr. DeFelice with a raised voice and tone.

45. Judge Maruszczak called Mr. DeFelice a "Judas Iscariot."

46. Judge Maruszczak claimed that Mr. DeFelice was a "liar."

47. Judge Maruszczak claimed that Mr. DeFelice did the following things:

- a. worked for his opponent; and
- b. stole Judge Maruszczak's yard signs.

48. Carole Kennedy is an Upper Merion Township Supervisor.

49. Judge Maruszczak and Mrs. Kennedy first became acquainted after Judge Maruszczak had contacted her in her official capacity seeking assistance regarding a friend's troubles with the Federal Emergency Management Agency (FEMA) over a flood insurance claim involving a flood plain.

50. Judge Maruszczak and Mrs. Kenney then saw each other around the area of Upper Merion Township at community gatherings; however, they were not personal friends.

51. On or about October 31, 2015, in the run up to the 2015 general election, Judge Maruszczak observed Mrs. Kenney canvassing neighborhoods in King of Prussia, including in front of Judge Maruszczak's home, on behalf of Judge Maruszczak's opponent, Ian Kingsley.

52. Judge Maruszczak confronted Mrs. Kenney and told her that he was surprised and disappointed she was supporting Mr. Kingsley.

53. Mrs. Kenney told Judge Maruszczak words to the effect that her activity was not meant to be a personal affront, but, instead, she was taking part in her right to participate in the democratic process.

54. Judge Maruszczak responded with words to the effect that, if something bad happens to Mrs. Kenney in the future, she would know why.

55. Mrs. Kenney then asked Judge Maruszczak if he was threatening her, which he denied.

56. Judge Maruszczak also stated he thought that he and Mrs. Kenney were friends because she had helped Judge Maruszczak with his friend's issue with FEMA.

57. Mrs. Kenney repeated that her support of Mr. Kingsley was not personal.

58. Mrs. Kenney then tried to end the conversation and walk away.

59. As Mrs. Kenney left, Judge Maruszczak expressed disbelief that she was supporting Judge Maruszczak's opponent and told her that there would be "payback" for the actions.

Discussion - Counts 1 and 2

In Counts 1 and 2 Judge Maruszczak is accused of violating Judicial Canons by his actions in engaging in loud public confrontations with former supporters who had switched to supporting his political opponents. Count 1

alleges a violation of Canon 4, Rule 4.2(A)(1) which states that a magisterial district judge "shall not engage in political or campaign activity that is inconsistent with the independence, integrity and impartiality of the judiciary."

Count 2 cites a violation of Canon 1, Rule 1.2, that "[a] magisterial district judge shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary and shall avoid impropriety and the appearance of impropriety."

Here there is no question that Judge Maruszczak's aggressive conduct towards Mrs. Rogovin, Mr. DeFelice and Mrs. Kenney violated Rule 4.2(A)(1) and Rule 1.2. Judge Maruszczak's conduct clearly did not promote public confidence in the independence, integrity and impartiality of the judiciary and amounted to impropriety. No judge or judicial candidate is permitted to engage in such aggressive verbal conduct as occurred in this case.

The misconduct stipulated to by Judge Maruszczak goes far beyond that allowed for a judge or prospective judge. Judge Maruszczak's conduct was rude, insulting and even threatening. Judge Maruszczak is found in violation of Counts 1 and 2.

By violating Counts 1 and 2 Judge Maruszczak has also derivatively violated Count 5 which, pursuant to Article V, § 17(b), makes it a violation under the section of the Constitution of Pennsylvania to violate a rule or canon prescribed by the Supreme Court.

Count 6 - The Disrepute Clause

Count 6 of the Complaint alleges a violation of the Disrepute Clause of Constitution of Pennsylvania, Article V, § 18(d)(1). That section states: "A justice, judge or justice of the peace may be suspended, removed from office

or otherwise disciplined for . . . conduct which . . . brings the judicial office into disrepute”

In ***In re Cicchetti*, 697 A.2d 297 (Pa.Ct.Jud.Disc. 1997)** this Court held that whether particular conduct has brought the judicial office into disrepute is a determination which must be made on a case-by-case basis with the particular conduct in each case to be weighed and scrutinized. “[D]isrepute necessarily involves consideration of whether the public’s perception of the judiciary as a whole has been affected by the alleged misconduct” ***In re Carney*, 79 A.3d 490, 501 (Pa. 2013)**.

This Court does not find a violation of the Disrepute Clause in this particular instance. Judge Maruszczak’s conduct was clearly wrong but it reflects badly on him personally rather than tainting the judiciary generally.

Conclusions of Law

Accordingly, we issue the following Conclusions of Law:

1. At Count 1, the Board has established by clear and convincing evidence that Judge Maruszczak while a candidate violated Canon 2, Rule 4.2(A)(1) in that he failed to act in a manner consistent with the independence, integrity and impartiality of the judiciary.

2. At Count 2, the Board has established by clear and convincing evidence that Judge Maruszczak violated Canon 1, Rule 1.2 in that he failed to act in a manner that promotes public confidence in the independence, integrity and impartiality of the judiciary and failed to avoid impropriety and the appearance of impropriety.

3. At Count 5, the Board has established by clear and convincing evidence the Judge Maruszczak violated Article V, 17(b) of the Constitution of

Pennsylvania in that he violated a canon or rule prescribed by the Supreme Court.

4. The remaining counts have not been proven by clear and convincing evidence.

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 Magisterial District Judge : No. 1 JD 18
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 38th Judicial District :
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ORDER OF COURT

AND NOW, this 9th day of January, 2019, based upon the Conclusions of Law set forth above, it is hereby ORDERED:

1. Pursuant to C.J.D.R.P. No. 503, the attached Opinion with Findings of Fact and Conclusions of Law is hereby filed, and shall be served on the Judicial Conduct Board and upon the Respondent;
2. Either party may file written objections to the Court's Conclusions of Law within ten (10) days of this Order. Said objections shall include the basis therefor and shall be served on the opposing party;
3. If objections are filed, the Court may schedule oral argument on the objections;
4. If objections are not filed within ten (10) days, the Findings of Fact and Conclusions of Law shall become final;
5. The Court will schedule a sanction hearing by further Order.

PER CURIAM