

**COMMONWEALTH OF PENNSYLVANIA
COURT OF JUDICIAL DISCIPLINE**

COURT OF JUDICIAL DISCIPLINE
OF PENNSYLVANIA

JUN - 9 2020

RECEIVED AND FILED

IN RE:

Judge Thomas A. Placey :
Court of Common Pleas : 2 JD 2020
9th Judicial District :
Cumberland County :

TO: THOMAS A. PLACEY

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

You have an absolute right to be represented by a lawyer in all proceedings before the Court of Judicial Discipline. Your attorney should file an entry of appearance with the Court of Judicial Discipline within fifteen (15) days of service of this Board Complaint in accordance with C.J.D.R.P. No. 110.

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

You are further hereby notified that within thirty (30) days after the service of this Complaint, if no omnibus motion is filed, or within twenty (20) days after the dismissal of all or part of the omnibus motion, you may file an

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

**COMMONWEALTH OF PENNSYLVANIA
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Judge Thomas A. Placey	:	
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Cumberland County	:	

COMPLAINT

AND NOW, this 8th day of June, 2020, comes the Judicial Conduct Board of the Commonwealth of Pennsylvania (Board) and files this Board Complaint against the Honorable Thomas A. Placey, Judge of the Court of Common Pleas of the Ninth Judicial District, Cumberland County, Pennsylvania, alleging that Judge Placey has violated the Code of Judicial Conduct and the Constitution of the Commonwealth of Pennsylvania, as more specifically delineated herein.

FACTUAL ALLEGATIONS

1. Article V, § 18 of the Constitution of the Commonwealth of Pennsylvania grants to the Board the authority to determine whether there is probable cause to file formal charges against a judicial officer in this Court, and thereafter, to prosecute the case in support of such charges in this Court.
2. From January 2, 2012, to the present, Judge Placey has served continuously as a Judge of the Court of Common Pleas of Cumberland County.
3. 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 Placey in this Court.

Samento v. Samento

4. On October 5, 2017, Judge Placey was presiding over a hearing in a civil action in the matter of *Samento v. Samento*, Cumberland County Docket No. 2009-08051.
5. After the moving party testified and presented a witness, the responding party took the witness stand to testify.
6. During the responding party's testimony, counsel for the moving party voiced a hearsay objection whereupon the following exchange took place:

Judge: Well, I don't know what he is saying so I don't know.

Attorney: He was indicating what he learned from the State Police.

Judge: And I don't -

Witness: I'm sure there's a record of this.

Judge: Sir.

Witness: I'm sorry.

Judge: Sit down now. Down. Out of that seat.

Witness: I'm sorry.

Judge: Move it like you have a purpose.

Witness: I'm sorry, Your Honor

7. An audio recording of the proceeding established that at times during the exchange described above, Judge Placey's voice was extremely loud and his tone was angry.
8. At this point, Judge Placey stood and leaned over the witness stand where the responding party was seated causing him to abruptly slide his chair back, colliding with the wall behind him.

9. While standing and leaning over the witness stand, the following exchange took place:

Judge: I'll tell you when I'm coming back. It's not going to be today. You get your client under control or I am going to tear him up on the stand. Do you understand me?

Attorney: I'm not sure, Your Honor, but I'll try to.

Judge: He talks over me one more time, I am going to rule summarily against him. Do you understand?

Attorney: Yes, Your Honor.

10. An audio recording of the proceeding established that at times during the exchange described above, Judge Placey's voice was extremely loud and his tone was angry.
11. At the conclusion of the above exchange, Judge Placey left the courtroom and did not return to the bench that day relative to the *Samento v. Samento* matter.
12. The responding party was not afforded an opportunity to finish his testimony or to present further witnesses regarding the issue before Judge Placey on October 5, 2017.
13. By order dated November 6, 2017, Judge Placey found in favor of the moving party.
14. On December 5, 2017, the responding party appealed Judge Placey's November 6, 2017 order to the Superior Court of Pennsylvania at docket no. 1890 MDA 2017.

15. On December 28, 2017, the responding party filed a motion requesting that Judge Placey recuse himself from the case, asserting that the Judge had exhibited animosity and hostility toward him.
16. Judge Placey denied the motion to recuse by order dated March 7, 2018.
17. On January 16, 2019, the Superior Court vacated Judge Placey's November 6, 2017 decision and remanded the case "for a hearing before another trial judge."
18. In its January 16, 2019 opinion, the Superior Court called the transcript of the October 5, 2017 hearing "disconcerting."
19. In its January 16, 2019 opinion, the Superior Court stated that the audio recording confirmed the "hostility" of the trial court toward the responding party.
20. In its January 16, 2019 opinion, the Superior Court found that Judge Placey had denied the responding party's due process rights by abruptly terminating the hearing.
21. In its opinion, the Superior Court found that Judge Placey had abused his discretion when he denied the responding party's motion for recusal.

Commonwealth v. Moore

22. On January 15, 2019, Judge Placey presided over sentencing in the matter of *Commonwealth v. D'Andre Moore*, CP-21-CR-2521-2018.
23. At the time of the sentencing proceeding referenced above, the courtroom was open to the public.

24. At the time of the sentencing proceeding referenced above, members of the public as well as the alleged victim and a victim advocate were present in the courtroom.
25. The Assistant District Attorney (ADA) representing the Commonwealth called the case and noted on the record that Judge Placey had just been provided a written restitution request.
26. Judge Placey indicated that the request was "different from the one that was in the file."
27. Thereafter, the transcript of the proceeding indicates that the following exchange took place:

ADA: I don't think there was anything in the file.

Judge: Oh, there was. I read the file. See, I come in on the weekends and read these files.

ADA: Right. There was no restitution in the file. That's not restitution. It is saying there's no restitution.

Judge: Yes.

ADA: At the time of the plea I informed - -

Judge: Yes. I'm saying it is different than what is in the file I read over - -

ADA: I informed the Court - -

Judge: Why do you talk over me? Step out of here. Get out. Take him back down to the cell. I will deal with him when I am ready. You, out.

ADA: Your Honor - -

Judge: Out. Now. Do you not listen? What is the problem with your hearing today? You, out. Out. Hand that file to somebody else.

28. An audio recording of the proceeding established that at times during the exchange described above, Judge Placey's voice was extremely loud and his tone was angry.

29. At this point, Judge Placey left the courtroom for a brief period of time.

30. A few moments later, after Judge Placey reentered the courtroom and observed the ADA in the courtroom, the following exchange took place:

Judge: Haul her out. She is the first one out of this courtroom. I walk back in here and she is still here. Get her out. Move it, sheriff.

ADA: I'm sorry, Your Honor.

Judge: Move it. Quit talking. Lord have mercy. You show me enough disrespect all freaking day long. What is your problem? Get out of here. She does not walk back into this courtroom, sheriff.

31. An audio recording of the proceeding established that at times during the exchange described above, Judge Placey's voice was extremely loud and his tone was angry.

32. Judge Placey's conduct during the sentencing proceeding on January 15, 2019, was the subject of a newspaper article. The reporter, who was present in the courtroom during the January 15, 2019 proceeding, described it as an "explosion."

Gnazzo v. Gnazzo

33. On August 8, 2018, Judge Placey was presiding over a custody proceeding in the matter of *Gnazzo v. Gnazzo*, Cumberland County Docket No. 2017-07655.

34. During cross examination of one of the parties, namely Lucy M. Gnazzo, counsel voiced an objection prompting Judge Placey to make the following statement:

Folks, are we going to fight? Or are we going to get this information. I am taking a break because you folks can't get to a landing. It is not a difficult case. Get me facts and I will get you a decision. Please, step down. We are taking a break.

35. An audio recording of the proceeding established that at times during the statement described above, Judge Placey's voice was extremely loud and his tone was angry.
36. While making the above statement, Judge Placey threw his glasses onto his desk knocking over a cup.
37. After making the above statement, Judge Placey left the bench.
38. When Judge Placey returned to the bench, the attorney who had been questioning Ms. Gnazzo declined to ask any further questions of her.

Wingard v. Wingard

39. On October 3, 2018, Judge Placey was presiding over a custody proceeding in the matter of *Wingard v. Wingard*, Cumberland County Docket No. 2015-05774.
40. While under direct examination, the plaintiff exhibited some confusion leading to the following exchange between the plaintiff, her attorney and Judge Placey:

Attorney: I'm going to stop you right now.

Plaintiff: Sure.

Attorney: Is this the November order or the May order are you - - do you want to take a minute and look at the November order first before I ask you these questions?

Plaintiff: Sure.

Judge: No, no, no. No, no, no, no, no, no. You folks really don't understand me. You don't get this. No. You're not going to do this are you?

Attorney: Yes, I am, Your Honor.

Judge: So you guys show her something already, for crying out loud. Get your witness prepared. Get off my witness stand. Call me when you're ready. I got other things to do.

41. Immediately after stating that he had "other things to do," Judge Placey left the courtroom.
42. During the exchange described above, Judge Placey's voice was extremely loud and his tone was angry.
43. Judge Placey returned to the courtroom four minutes later and made the following statement:

Relax. Have a seat. Ma'am, get back up here. Parents, if you can't tell, I'm going to be hostile with you right now. Let me explain something, parents, all right. I haven't seen you folks before, but I give you an order to do something and it doesn't get done, you see my temperament. If you can't be nice to each other, don't even bother taking the witness stand. And if you're not ready to go when we start, you're going to get chewed up and spat out by me. Let's go, counselor.

Interaction with Attorney

44. On August 2, 2019, Attorney Corey Fahnestock was in the Cumberland County Courthouse waiting to meet with a client.
45. Judge Placey's law clerk, Bryan Bartosik-Velez, approached attorney Fahnestock and told him that Judge Placey wanted an attorney to "cover" a criminal proceeding in his courtroom.
46. Judge Placey's law clerk asked the attorney to "cover" the criminal proceeding.
47. Attorney Fahnestock was unfamiliar with the criminal proceeding referenced by Judge Placey's law clerk.
48. The attorney declined the request to "cover" the criminal proceeding.

49. Judge Placey's law clerk then asked the attorney for his name and indicated that he would inform Judge Placey that the attorney had refused to comply with the Judge's request.
50. A few moments later, Judge Placey approached the attorney and told the attorney to follow him into a small conference-type room in the courthouse.
51. The attorney complied with the Judge's direction.
52. When Judge Placey entered the small conference-type room, it was being used by a Cumberland County Magisterial District Judge as a courtroom.
53. Judge Placey directed everyone except the attorney, the Judge's law clerk and the Magisterial District Judge to leave the room.
54. After the door was closed, Judge Placey told the attorney that when he tells the attorney to go somewhere, the attorney is required to do so.
55. While addressing the attorney in the small conference-type room, Judge Placey's voice was extremely loud and his tone was angry.
56. While addressing the attorney, Judge Placey's voice was loud enough to be heard by people outside of the room.

CHARGES

Count 1 – Violation of Canon 2, Rule 2.6

57. By virtue of some or all of the conduct alleged in paragraphs 4 through 21, Judge Placey violated Canon 2, Rule 2.6 of the Code of Judicial Conduct.

58. Canon 2, Rule 2.6 states the following:

Canon 2, Rule 2.6. Ensuring the Right to Be Heard.

(A) A judge shall accord to every person or entity who has a legal interest in a proceeding, or that person or entity's lawyer, the right to be heard according to law.

59. Judge Placey failed to ensure the right to be heard when, on October 5, 2017, he prevented the responding party from finishing his testimony and presenting further witnesses. By engaging in the conduct described in paragraphs 4 through 21, Judge Placey failed to ensure the right to be heard within the meaning of Canon 2, Rule 2.6 of the Code of Judicial Conduct.

Counts 2 through 6 – Violation of Canon 2, Rule 2.8

60. By virtue of some or all of the conduct alleged in paragraphs 4 through 56, Judge Placey violated Canon 2, Rule 2.8(B) of the Code of Judicial Conduct.

61. Canon 2, Rule 2.8(B) states the following:

Canon 2, Rule 2.8. Decorum, Demeanor, and Communication with Jurors.

(B) A judge shall be patient, dignified, and courteous to litigants, jurors, witnesses, lawyers, court staff, court officials, and others with whom the judge deals in an official capacity, and shall require similar conduct of lawyers, court staff, court officials, and others subject to the judge's direction and control.

62. Judge Placey failed to conduct himself in a patient, dignified, and courteous manner when, on October 5, 2017, in the matter of *Samento v. Samento*, he used an extremely loud volume and angry tone when speaking to the responding party. By engaging in the conduct described in paragraphs 4 through 21, Judge Placey failed to be patient, dignified, and courteous within the meaning of Canon 2, Rule 2.8(B) of the Code of Judicial Conduct.

63. Judge Placey failed to conduct himself in a patient, dignified, and courteous manner when, on January 15, 2019, in the matter of *Commonwealth v. Moore*, he used an extremely loud volume and angry tone when speaking to the ADA. By engaging in the conduct described in paragraphs 22 through 32, Judge Placey failed to be patient, dignified, and courteous within the meaning of Canon 2, Rule 2.8(B) of the Code of Judicial Conduct.
64. Judge Placey failed to conduct himself in a patient, dignified, and courteous manner when, on August 8, 2018, in the matter of *Gnazzo v. Gnazzo*, he used an extremely loud volume and angry tone when speaking during a court proceeding. By engaging in the conduct described in paragraphs 33 through 38, Judge Placey failed to be patient, dignified, and courteous within the meaning of Canon 2, Rule 2.8(B) of the Code of Judicial Conduct.
65. Judge Placey failed to conduct himself in a patient, dignified, and courteous manner when, on October 3, 2018, in the matter of *Wingard v. Wingard*, he used an extremely loud volume and angry tone when speaking during a court proceeding. By engaging in the conduct described in paragraphs 39 through 43, Judge Placey failed to be patient, dignified, and courteous within the meaning of Canon 2, Rule 2.8(B) of the Code of Judicial Conduct.
66. Judge Placey failed to conduct himself in a patient, dignified, and courteous manner when, on August 2, 2019, he used an extremely loud volume and angry tone when speaking to attorney Fahnestock. By engaging in the conduct described in paragraphs 44 through 56, Judge Placey failed to be patient, dignified, and courteous within the meaning of Canon 2, Rule 2.8(B) of the Code of Judicial Conduct.

Count 7 – Violation of Canon 2, Rule 2.11

67. By virtue of some or all of the conduct alleged in paragraphs 4 through 21, Judge Placey violated Canon 2, Rule 2.11(A) of the Code of Judicial Conduct.

68. Canon 2, Rule 2.11(A) states the following:

Canon 2, Rule 2.11. Disqualification.

(A) A judge shall disqualify himself or herself in any proceeding in which the judge's impartiality might reasonably be questioned, including but not limited to the following circumstances:

(1) The judge has a personal bias or prejudice concerning a party or a party's lawyer

69. Judge Placey failed to disqualify himself as required in the matter of *Samento v. Samento* when his impartiality could reasonably be questioned. By engaging in the conduct described in paragraphs 4 through 21, Judge Placey failed to disqualify himself as required within the meaning of Canon 2, Rule 2.11 of the Code of Judicial Conduct.

Counts 8 through 14 – Violation of Article V, § 17(b) of the Constitution of the Commonwealth of Pennsylvania

70. By virtue of some or all of the conduct set forth above, Judge Placey violated Article V, § 17(b) of the Constitution of the Commonwealth of Pennsylvania.

71. Article V, § 17(b) of the Constitution of the Commonwealth of Pennsylvania states the following:

Article V, § 17(b) Derivative Violation

Justices and judges shall not engage in any activity prohibited by law and shall not violate any canon of legal or judicial ethics prescribed by the Supreme Court.

72. A violation of the Code of Judicial Conduct constitutes an automatic, derivative violation of Article V, § 17(b) of the Constitution of the Commonwealth of Pennsylvania.
73. Judge Placey violated Canon 2, Rule 2.6(A) (1 count).
74. Judge Placey violated Canon 2, Rule 2.8(B) (5 counts).
75. Judge Placey violated Canon 2, Rule 2.11(A) (1 count).
76. By violation of all, or some, of the Rules set forth above, Judge Placey violated Article V, § 17(b) of the Constitution of the Commonwealth of Pennsylvania.

Count 15 through 18 - Violation of Article V, § 18(d)(1) of the Constitution of the Commonwealth of Pennsylvania

77. By virtue of some or all of the conduct alleged in paragraphs 4 through 43, Judge Placey violated Article V, § 18(d)(1) of the Constitution of the Commonwealth of Pennsylvania.
78. Article V, § 18(d)(1) of the Constitution of the Commonwealth of Pennsylvania states the following:

Article V, § 18(d)(1) Disrepute

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, whether or not the conduct occurred while acting in a judicial capacity[.]

79. By his conduct as described in paragraphs 4 through 21 above pertaining to the *Samento v. Samento* matter, Judge Placey engaged in conduct that was so extreme that it brought the judicial office itself into disrepute and thereby constitutes a violation of the Disrepute Clause of Article V, § 18(d)(1) of the Constitution of the Commonwealth of Pennsylvania.

80. By his conduct as described in paragraphs 22 through 32 above pertaining to the *Commonwealth v. Moore* sentencing, Judge Placey engaged in conduct that was so extreme that it brought the judicial office itself into disrepute and thereby constitutes a violation of the Disrepute Clause of Article V, § 18(d)(1) of the Constitution of the Commonwealth of Pennsylvania.
81. By his conduct as described in paragraphs 33 through 38 above pertaining to the *Gnazzo v. Gnazzo* matter, Judge Placey engaged in conduct that was so extreme that it brought the judicial office itself into disrepute and thereby constitutes a violation of the Disrepute Clause of Article V, § 18(d)(1) of the Constitution of the Commonwealth of Pennsylvania.
82. By his conduct as described in paragraphs 39 through 43 above pertaining to the *Wingard v. Wingard* matter, Judge Placey engaged in conduct that was so extreme that it brought the judicial office itself into disrepute and thereby constitutes a violation of the Disrepute Clause of Article V, § 18(d)(1) of the Constitution of the Commonwealth of Pennsylvania.

WHEREFORE, Thomas A. Placey, Judge of the Court of Common Pleas of Cumberland County, Pennsylvania, is subject to disciplinary action pursuant to the Constitution of the Commonwealth of Pennsylvania, Article V, § 18(d)(1).

Respectfully submitted,

Richard W. Long
Chief Counsel

DATE: June 9, 2020

By:



MELISSA L. NORTON

Deputy Counsel

Pa. Supreme Court ID No. 46684

Judicial Conduct Board
Pennsylvania Judicial Center
601 Commonwealth Avenue, Suite 3500
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(717) 234-7911

VERIFICATION

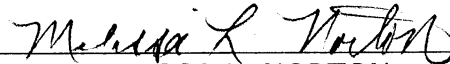
I, Melissa L, Norton, Deputy Counsel to the Judicial Conduct Board, verify that the Judicial Conduct Board found probable cause to file the formal charges contained in the *BOARD COMPLAINT*. I understand that the statements herein are made subject to the penalties of 18 Pa. Cons. Stat. Ann. § 4904, relating to unsworn falsification to authorities.

Respectfully submitted,

RICHARD W. LONG
Chief Counsel

Date: June 9, 2020

By:



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**COMMONWEALTH OF PENNSYLVANIA
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IN RE:

Judge Thomas A. Placey :
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CERTIFICATE OF COMPLIANCE

I certify that this filing complies with the provisions of the *Case Records Public Access Policy of the Unified Judicial System of Pennsylvania* that require filing confidential information and documents differently than non-confidential information and documents.

Submitted by: Judicial Conduct Board of Pennsylvania

Signature:



Name:

MELISSA L. NORTON
Deputy Counsel

Attorney No.:

46684

**COMMONWEALTH OF PENNSYLVANIA
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PROOF OF SERVICE

In compliance with Rule 122(D) of the Court of Judicial Discipline Rules of Procedure, on June 9, 2020, a copy of the *Board Complaint* was sent via UPS Overnight Mail, to Heidi Eakin, Esquire, counsel to Judge Thomas A. Placey at the following address and via email:

Heidi Eakin, Esquire
Costopoulos, Foster & Fields
831 Market Street
Lemoyne, PA 17043
heakin@costopoulos.com

Respectfully submitted,

Date: June 9, 2020

BY: 
MELISSA L. NORTON
Deputy Counsel

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