

COMMONWEALTH OF PENNSYLVANIA
COURT OF JUDICIAL DISCIPLINE

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OF PENNSYLVANIA

NOV 10 2020

RECEIVED AND FILED

IN RE:

Judge Mark V. Tranquilli :
Court of Common Pleas : 4 JD 2020
5th Judicial District :
Allegheny County :

JUDICIAL CONDUCT BOARD PRE-TRIAL MEMORANDUM

AND NOW, this 10th day of November, 2020, comes the Judicial Conduct Board of the Commonwealth of Pennsylvania (Board) by and through undersigned counsel, pursuant to this Court's September 21, 2020 Order and files this Pre-trial Memorandum:

A. TRIAL WITNESS LIST

The Board may call some or all of the following witnesses at trial:

1. Timothy G. Uhrich, Esquire
213 East Main Street
Carnegie PA 15106

Attorney Uhrich will testify regarding paragraphs 4 through 9 of the Board Complaint filed August 12, 2020.

2. Stephanie T. Anderson, Esquire
429 Fourth Avenue, No. 1502
Pittsburgh, PA 15219

Attorney Anderson will testify regarding paragraphs 4 through 9 of the Board Complaint filed August 12, 2020.

3. Thaddeus Dutkowski, Esquire
436 Grant Street, Rm. 401
Pittsburgh, PA 15219

Assistant District Attorney Dutkowski will testify regarding paragraphs 10 through 29 of the Board Complaint filed August 12, 2020.

4. Joseph Otte, Esquire
428 Forbes Avenue, No. 400
Pittsburgh, Pa 15219

Attorney Otte will testify regarding paragraphs 10 through 29 of the Board Complaint filed August 12, 2020.

5. The Honorable Kim Berkeley Clark
President Judge
Court of Common Pleas Allegheny County
436 Grant Street
Pittsburgh, PA 15219

President Judge Clark will testify regarding paragraphs 4 through 29 of the Board Complaint filed August 12, 2020.

B. BOARD EXHIBITS

The Board may introduce some or all of the following exhibits at trial in its case in chief:

1. Judicial Conduct Board Confidential Request for Investigation received February 10, 2020, filed by Timothy G. Uhrich, Esquire.
2. Judicial Conduct Board Confidential Request for Investigation received February 6, 2020, filed by President Judge Kim Berkeley Clark, with attached letter and Investigation Report of Comments Made by the Honorable Mark V. Tranquilli.
3. ***Commonwealth v. Lamar Rice***, CP-02-CR-4083-2017 docket.
4. Judicial Conduct Board Confidential Request for Investigation received January 28, 2020, filed by Joseph Otte, Esquire.
5. Memorandum of ADA Thaddeus Dutkowski dated January 27, 2020, re: ***Commonwealth v. Lamar Rice***, CP-02-CR-4083-2017 In Camera Post-Trial Conversation.
6. ***Commonwealth v. Cherrell Russell***, CP-02-CR-9998-2017 docket.
7. ***Commonwealth v. Cherrell Russell***, CP-02-CR-9998-2017 October 31, 2018 sentencing transcript.
8. ***Commonwealth v. Jamie Maurice Koskey***, CP-02-CR-2856-2018 docket.

9. ***Commonwealth v. Jamie Maurice Koskey***, CP-02-CR-2856-2018 March 13, 2019 Sentencing transcript.
10. June 25, 2020 deposition transcript of the Honorable Mark V. Tranquilli, taken by James P. Kleman, Jr., Deputy Counsel, Judicial Conduct Board of Pennsylvania.
11. Email dated August 4, 2020, re: Judge Mark Tranquilli[’s] resignation, sent to Judicial Conduct Board ContactUs address, President Judge Kim Berkeley Clark, Judge Mark Tranquilli, and Judge Jill Rangos.
12. Email dated August 5, 2020, re: Urging Tranquilli’s resignation, sent to Judicial Conduct Board ContactUs address, President Judge Kim Berkeley Clark, Judge Mark Tranquilli, and Judge Jill Rangos.
13. Email dated August 5, 2020, re: Racist Allegations against Judge Mark Tranquilli, sent to Judicial Conduct Board ContactUs address, Judge Kim Berkeley Clark, Judge Mark Tranquilli, and Judge Jill Rangos.
14. ***Patterson v. Patterson***, FD-15-000312 docket.

C. STIPULATIONS

It can reasonably be expected that opposing counsel will agree to the following stipulations:

1. The parties stipulate to the admissibility and authenticity of the exhibits noted above at part B.
2. 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.
3. From January 6, 2014, to the present, Judge Tranquilli has served continuously as a Judge of the Court of Common Pleas of Allegheny County.

4. 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 Tranquilli in this Court.
5. On August 14, 2015, while serving an assignment in family court, Judge Tranquilli conducted a custody conciliation in the matter of **Jayson Patterson v. Cara Patterson**, FD-15-00312.
 - a. Jayson Patterson and Cara Patterson are black.
6. Timothy Uhrich, Esquire, represented Jayson Patterson.
7. Stephanie Anderson, Esquire, represented Cara Patterson.
8. Judge Tranquilli spoke with Attorneys Uhrich and Anderson first without the Pattersons present, then he called Jayson and Cara Patterson into his office.
9. Judge Tranquilli then proceeded to discuss with the parties how he expected them to behave while exercising custody of their child.
10. On January 24, 2020, Judge Tranquilli presided over a re-trial of a charge of possession with intent to deliver at **Commonwealth v. Lamar Rice**, CP-02-CR-4083-2017.
11. The re-trial of the **Rice** case was the result of a prior mistrial on the possession with intent to deliver charge; the defendant had previously been found guilty of possession of a controlled substance.
12. Joseph Otte, Esquire, represented the defendant in **Rice**.
13. Assistant District Attorney Thaddeus "Ted" Dutkowski represented the Commonwealth in **Rice**.
14. After trial was concluded, the jury deliberated and presented a verdict slip to Judge Tranquilli.

15. Judge Tranquilli read the verdict slip silently and tossed it back to his minute clerk.
16. The jury foreperson then announced the verdict on the possession with intent to deliver charge, which was "not guilty."
17. Judge Tranquilli then sentenced the defendant for the possession of a controlled substance charge.
18. After sentencing, Judge Tranquilli, through a subordinate court employee, asked to speak with Attorney Otte and ADA Dutkowski in his chambers.
19. When Attorney Otte and ADA Dutkowski arrived in Judge Tranquilli's chambers, Judge Tranquilli immediately expressed bewilderment about the persons picked by them for jury service in the **Rice** case.
20. Judge Tranquilli discussed the seating of Juror #11 as follows:
 - a. Judge Tranquilli asked ADA Dutkowski what he was thinking "putting that knucklehead, Juror #11 on the jury?"
 - b. Judge Tranquilli observed that, in a post-trial conference he had with the jury, Juror #11 told fellow jurors that they had to acquit the defendant because the police did not have probable cause or reasonable suspicion to search the defendant.
 - c. Judge Tranquilli told ADA Dutkowski that he asked Juror #11, "Where in my charge did probable cause or reasonable suspicion come up for you to make that decision?"
 - d. Judge Tranquilli told ADA Dutkowski that, in the post-trial conference with the jury, he (Judge Tranquilli) said, "Didn't you

remember that a legal decision should be made by the Judge? Why didn't somebody say let's ask Judge Tranquilli?"

21. In response, ADA Dutkowski offered an explanation to Judge Tranquilli as to why he did not move to strike Juror #11.
22. Judge Tranquilli then discussed the seating of Juror #12, which he found questionable due to the fact that Juror #12 was the mother of a public defender.
23. As to Juror #12, Judge Tranquilli asked ADA Dutkowski a question to the effect of, "Don't you know she's going to go to Sunday dinner with her daughter who will tell her about all the people being wrongly charged and having their rights violated?"
24. Judge Tranquilli then discussed the seating of Juror #4, a black female, apparently in her 20s, who wore her hair in a kerchief during trial.
25. Judge Tranquilli told ADA Dutkowski that he knew ADA Dutkowski was going "to have a problem," meaning, ADA Dutkowski was not going to obtain a conviction of the defendant, when Judge Tranquilli saw Juror #4 seated.
26. Judge Tranquilli then proceeded to describe his views of Juror #4's physical demeanor and facial expressions during trial.
27. Judge Tranquilli stated that Juror #4's expressions evinced a negative attitude toward the Commonwealth's case against the defendant.
28. On October 31, 2018, Judge Tranquilli presided over the sentencing of the defendant in the matter of ***Commonwealth v. Cherrell Russell***, CP-02-CR-9998-2017.
29. While speaking about the defendant's family situation during sentencing, Judge Tranquilli stated the following:

JUDGE TRANQUILLI: So, Ms. Russell, are you familiar with the phrase, if you lay down with dogs, you wake up with fleas? Have you ever heard that before in your life?

THE DEFENDANT: I have.

JUDGE TRANQUILLI: So now you have laid down twice with dogs, but you have woken up with two lovely children, probably two lovely children I'm betting you were probably not planning on. And for the cost of three shiny quarters in any bathroom in any rest stop in Pennsylvania, you probably could have gone a different direction.

See Russell, N.T. Sentencing, 10/31/2018, at 10-11.

30. When speaking about the probation component of the defendant's sentence in the

Russell matter, Judge Tranquilli addressed the defendant as follows:

JUDGE TRANQUILLI: I'm going to tell you what I tell every single person I put on probation. I don't have to take any notes because I know I give this speech to everybody. Don't feel like a lone ranger. [Your attorney] has known me for 25 years.

I have a notoriously low tolerance for misbehavior. I was a District Attorney [sic] for 20 years, and for the last 13 years, all I did was dead body cases, dead body, dead body, dead body. For the last eight years, I ran the Homicide Unit. If I had a nickel for every picture of a dead person I looked at on my desk while I was eating a turkey sandwich, I could retire right now and be a rich man. As a result of these experiences, there is no milk of human kindness left in these veins. It is just too much death.

So what that means for you is, the take away is this. If I ever see you again in my courtroom for a probation violation, the story ends with you in a red jumpsuit, handcuffs and shackles being led off to the state correctional institution at Muncy where they put the females.

See Russell, N.T. Sentencing, 10/31/2018, at 22-23.

31. On March 13, 2019, Judge Tranquilli presided over the sentencing of the defendant in the matter of **Commonwealth v. Jamie Maurice Koskey**, CP-02-CR-1856-2018.

32. When discussing the probation aspect of the defendant's sentence in the **Koskey** matter and his concomitant responsibility to comply with his delayed report date

to the Allegheny County Jail to serve the jail component of the sentence, Judge Tranquilli made the following statement:

So if you don't show up in 30 days, you have violated my probation, and I'm going to cast you down amongst the [S]odomites, all right, in state prison. All right?

See Koskey, N.T. Sentencing, 3/13/2019, at 23.

D. DISCOVERY CERTIFICATION

The Board, by and through undersigned counsel, hereby certifies that it has provided to Judge Tranquilli all materials required to be exchanged under C.J.D.R.P. No. 401(D)(1).

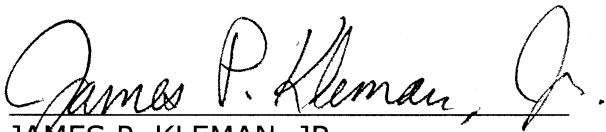
E. EXCULPATORY EVIDENCE CERTIFICATION

The Board, by and through undersigned counsel, hereby certifies that it has provided to Judge Tranquilli all materials required to be exchanged under C.J.D.R.P. No. 401(E).

Respectfully submitted,

RICHARD W. LONG
Chief Counsel

November 10, 2020

By: 
JAMES P. KLEMAN, JR.
Deputy Counsel
Pa. Supreme Court ID No. 87637
Judicial Conduct Board
Pennsylvania Judicial Center
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P.O. Box 62525
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|-----------------------------------|---|-----------|
| Judge Mark V. Tranquilli | : | |
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| 5 th Judicial District | : | |
| Allegheny County | : | |

CERTIFICATE OF COMPLIANCE

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

Submitted by: Judicial Conduct Board of Pennsylvania

Signature: 

Name: James P. Kleman, Jr.
 Deputy Counsel

Attorney No: 87637

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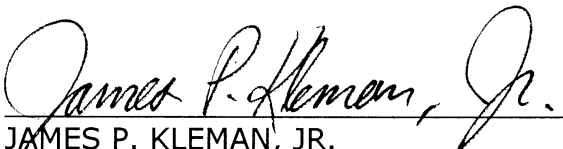
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| Judge Mark V. Tranquilli | : | |
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| 5 th Judicial District | : | |
| Allegheny County | : | |

PROOF OF SERVICE

In compliance with Rule 122 of the Court of Judicial Discipline Rules of Procedure, on November 10, 2020, a copy of the Board's Pre-Trial memorandum was sent by UPS Overnight mail to Judge Tranquilli's counsel, John E. Quinn, Esquire, and Matthew Logue, Esquire, at the following address:

John E. Quinn, Esquire
Matthew Logue, Esquire
Quinn Logue LLC
200 First Avenue, 3rd Floor
Pittsburgh, PA 15222-1512

November 10, 2020

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