

**COMMONWEALTH OF PENNSYLVANIA
COURT OF JUDICIAL DISCIPLINE**

COURT OF JUDICIAL DISCIPLINE
OF PENNSYLVANIA
FEB 20 2024
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IN RE:

Judge Anthony Saveikis :
Magisterial District Court :
District 05-3-17 : 1 JD 2024
Allegheny County :

**JUDICIAL CONDUCT BOARD REPLY TO JUDGE SAVEIKIS'S OMNIBUS
MOTION AND MEMORANDUM OF LAW**

AND NOW, this 20th day of February, 2024, comes the Judicial Conduct Board of the Commonwealth of Pennsylvania (Board) by and through undersigned counsel, and files this Reply to Judge Saveikis's Omnibus Motion and accompanying Memorandum of Law:

1. Admitted. By way of further answer, on January 26, 2024, the Board filed an eight-count Board Complaint alleging that Judge Saveikis has committed misconduct by his repeated inappropriate conduct with juvenile males, two of whom appeared before him in his official capacity.
2. Admitted.
3. To the extent that this paragraph requires an answer, Board counsel does not object to an extension of twenty (20) days after receipt of discovery for Judge Saveikis to respond to the Board's complaint and will provide discovery within the required sixty (60) days, if not before.
4. This paragraph states a conclusion of law for which no response is required.
5. This paragraph states a conclusion of law for which no response is required.
6. To the extent that a response to this paragraph is required, the Pennsylvania Constitution, Article V, §18(b)(5) provides, in pertinent part, that "the Board

shall have the burden of proving the charges by clear and convincing evidence.”

7. Admitted.

8. This paragraph constitutes argument and states a conclusion of law for which no response is required. The Board will submit its argument regarding same in the attached memorandum of law.

9. Admitted.

10. Admitted in part. It is correct that the incident with W.B. occurred in 2018 and that the remaining complaints occurred in 2022. As to the remainder, this constitutes argument and states a conclusion of law for which no response is required. The Board will submit its argument regarding same in the attached memorandum of law.

11. This paragraph constitutes argument and states a conclusion of law for which no response is required. The Board will submit its argument regarding same in the attached memorandum of law.

12. This paragraph constitutes argument. The Board will submit its argument regarding same in the attached memorandum of law.

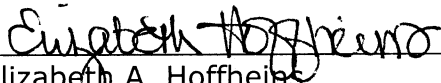
13. This paragraph constitutes argument and states a conclusion of law for which no response is required. The Board will submit its argument regarding same in the attached memorandum of law.

WHEREFORE, based on the foregoing averments and the arguments set forth in the Board's supporting Memorandum, incorporated herein by reference, the Board respectfully requests that this Honorable Court deny Judge Saveikis's Omnibus Motion.

Respectfully submitted,
MELISSA L. NORTON
Chief Counsel

DATE: February 20, 2024

By:


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IN RE:

Judge Anthony Saveikis	:	
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**MEMORANDUM OF JUDICIAL CONDUCT BOARD REGARDING JUDGE
SAVEIKIS'S OMNIBUS MOTION**

I. ARGUMENT

a. Judicial Conduct Board Rule of Procedure 15 and Laches:

Respondent's counsel first asserts that the Board's charges with respect to W.B. should be dismissed as being beyond the Board's Rule on limitations, found at Judicial Conduct Board Rule of Procedure 15, which states:

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 the date of the complaint, provided, however, that when the last episode of an alleged pattern of recurring judicial misconduct arises within the four-year period, the Board may consider all prior acts or omissions related to such an alleged pattern of conduct.

Within this argument, Judge Saveikis asserts the following: (1) the conduct regarding W.B. occurred more than four years ago, (2) the charges regarding W.B. occurred four years prior to the other complaints of misconduct, which occurred in 2022, and (3) the complaints involve dissimilar facts. First, it is incorrect that Judge Saveikis's conduct with W.B. occurred outside of the limitations period, or that his conduct with W.B. predated subsequent complaints of misconduct by more than four years; however, to the extent that it is a close question, the inquiry does not end there. As quoted above, the Board may look beyond the four-year limitations period when the Board "determines otherwise for good cause" and may look to previous acts when it identifies a pattern of misconduct.

The Court took up the issue of what constitutes "good cause" under Rule 15 in *In re Zupsic*, 893 A.2d 875 (Pa. Ct. Jud. Disc. 2005). In that case, the Court identified four nonexclusive factors concerning the existence of "good cause" that would justify the investigation of those complaints made outside of the limitations period. Those factors are: (1) the length of time between the filing of the complaint and the date on which the limitations period would have elapsed; (2) whether the Court found veracity in the underlying allegations at trial; (3) whether there was a complaint to

any other party outside of the Board; and (4) the seriousness of the allegation(s). *Id.* at 887.

In the present matter, it is not necessary to address the first factor identified above, as the initial complaint in this case came to the Board on November 20, 2022. The conduct at issue was reported to have occurred on November 24, 2018, which is inside the four-year limitations period contemplated by the Board's rule. Furthermore, although the Court has not yet had the benefit of hearing testimony in this matter, Judge Saveikis's conduct with W.B. is corroborated by the Allegheny County police investigation into this matter, which included statements from coworkers of W.B., video showing Judge Saveikis interacting with W.B., summarized in their investigation report, and an interview with Judge Saveikis in which he confirmed much of the complained-of conduct. In addition to the above, there is no question that Judge Saveikis's encounter with W.B. was reported promptly to entities outside of the Board. As stated in the Board's Complaint, W.B. reported the charged conduct to the Findlay Township Police Department within hours of its occurrence. The complaint was then referred to the Allegheny County Police Department for further investigation, who in turn reported the incident and the results of their investigation to the Allegheny County District Attorney's Office. That office relayed the conduct to then-President Judge Kim Berkeley Clark. Although no criminal charges were filed at the time as a result of this incident, counsel would submit that a judge engaging in inappropriate and repeated contact with juveniles, some of whom appeared before him, is "the embodiment of the kind of judicial conduct which the Judicial Conduct Board was created to eradicate[.]" *Id.*

As to counsel's assertion that the complaints are "not that similar," this does not withstand scrutiny. In each of the incidents charged, Judge Saveikis engaged in inappropriate behavior in which he was overly familiar with juvenile males. In both the instant case and the conduct charged with respect to Z.H., this impropriety included unwanted physical touch that made that juvenile uncomfortable. In the conduct at issue, W.B. was 17 at the time, as was D.M. in a later incident; in each case, the individual was under the age of 18 at the time that the conduct occurred. Additionally, when the incident with Z.H. was referred to the Allegheny County District Attorney's Office, ADA Jennifer DiGiovanni opined that it was "nearly identical conduct" to that with W.B. Contrary to counsel's assertion that this behavior is dissimilar, the charged conduct with W.B. is part of a pattern of misconduct of a "repeated, routine, or of a generalized nature." *In re Lokuta*, 964 A.2d 988, 1128 (Pa.Ct.Jud.Disc. 2008). This remains so despite the passage of time and the slight differences seen across the complained-of incidents.

Counsel next argues the affirmative defense of laches. A party using this defense must generally prove that the complaining party, here the Commonwealth, through the Board, lacked due diligence in failing to institute his action to another's prejudice. *Id.* at 1131. "The prejudice required may be established where, for example, witnesses die or become unavailable, records are lost or destroyed, and changes in position occur due to the anticipation that a party will not pursue a particular claim." *Id.* at 1130 (citations omitted). Where, as here, the Commonwealth, through the Board, is the complaining party, the party asserting

laches must make a “stronger showing” that laches applies to bar the Commonwealth from prosecuting its claim. *Id.* at 1131, FN 59 (citations omitted).

Judge Saveikis has made no showing that the Board failed to exercise due diligence in its investigation of this case. To the extent that there is such an argument, it lacks merit. The Board received the instant complaint on November 20, 2022. After conducting a preliminary investigation into the issues raised, a Notice of Full Investigation was approved on April 11, 2023. Due to a lack of information as to Judge Saveikis’s whereabouts at that time, that Notice was issued on June 2, 2023. Thereafter, Board counsel agreed to an ongoing extension of time to respond so that the judge could address a health issue. Following continued investigation, the instant complaint was approved by the Board on December 11, 2023, and filed expeditiously thereafter. As such, the only possible delay in this investigation was agreed upon as a courtesy to its subject. To the extent that the omnibus motion imputes a delay in reporting to the Board, this too does not withstand scrutiny. While it is true that President Judge Clark did not report this first instance at the time that it occurred, the defense of laches does not bar the Board from investigating the matter complained of and reaching a probable cause determination as to the same. As to the prejudice prong of the argument, Judge Saveikis cites to *In re DeLeon*, 902 A.2d 1027 (Pa.Ct.Jud.Disc. 2006). The *DeLeon* case is readily distinguishable from the instant matter, however, and additionally cites to a Rule of Procedure that was rescinded in February 2007. In that case, the Court noted that DeLeon had suffered actual prejudice, in that three fact witnesses and several character witnesses had since passed away. In the present instance, the witnesses are alive and available to testify and have provided statements to the Board forming the basis of the present charges, which counsel will of course provide in discovery. Likewise, no records have been destroyed and will be available for inspection by Judge Saveikis as his counsel has requested. As the Board is a Commonwealth agency, as noted above, Judge Saveikis is required to make a “stronger showing” of prejudice here. As no prejudice has been shown at all, his laches argument is without merit.

b. Pennsylvania Constitution Article V, §18(d)(1) Charging Disrepute

By way of background, the Board received the instant complaint on November 20, 2022, alleging that Judge Saveikis had repeatedly engaged in inappropriate interactions with juveniles despite multiple police investigations into his conduct and prior warning to cease his behavior. The Board investigated these allegations, identifying three incidents between the years of 2018 and 2022. In the first, Judge Saveikis approached a juvenile male by the name of W.B. at his place of employment. Judge Saveikis proceeded to ask W.B. personal questions, despite the two never having met before. The judge then followed W.B. into a secure, secluded area of the restaurant and touched him on the arms, back, and head in a manner that made W.B. feel uncomfortable and “very vulnerable.” Judge Saveikis’s conduct was investigated by the Allegheny County Police Department and the District Attorney’s Office. Although no charges were filed, Judge Saveikis was reprimanded by President Judge Clark and warned not to engage in repeated behavior of this type.

This warning apparently had little effect. While investigating the above complaint, it was discovered that in March 2022, D.M., a minor, appeared before Judge Saveikis for a summary hearing and as part of his sentence was ordered to complete community service. Despite the fact that he was still presiding over D.M.'s case, Judge Saveikis visited D.M. while he was completing his community service hours and at his place of employment. Additionally, Judge Saveikis texted D.M. on his personal cell phone and, despite being nearly forty years his senior and D.M. being a minor, Judge Saveikis offered to take D.M. out socially on various occasions. Despite these interactions, Judge Saveikis went on to dismiss D.M.'s charges after he had completed his court-ordered conditions.

Later, in August 2022, Judge Saveikis presided over a summary hearing for Z.H., aged 14 at the time. Like D.M., Z.H. was ordered to engage in community service. While Z.H. was completing his hours, Judge Saveikis sought him out and removed him from the festival without notice to or permission from his parents. He then took Z.H. to lunch and to a convenience store, paying for Z.H.'s selections both times. Following their return to the festival, Judge Saveikis walked around the grounds with Z.H. "arm in arm," making Z.H. feel uncomfortable. Further, he referred to Z.H. as a "red-bone," a derogatory term for someone of mixed-race heritage. Like in the case of D.M., Judge Saveikis continued to preside over Z.H.'s case and eventually was responsible for entering a dismissal of his charges. This interaction was reported to Allegheny County Police, who forwarded the results of their investigation to the District Attorney's Office. Again, no charges were filed. However, President Judge Clark again "strongly" cautioned Judge Saveikis regarding his behavior with juvenile males and took the additional step of prohibiting him from hearing cases involving minors until the disposition of the Board's investigation into his conduct.

By the above conduct, Judge Saveikis has repeatedly engaged in activities that bring the office of the judiciary into disrepute. Article V, §18(d)(1) of the Pennsylvania Constitution provides, in relevant part:

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 or is prohibited by law."

Counsel for Judge Saveikis cites numerous cases on both sides of the issue of disrepute as support for their contention that this most serious charge should be dismissed.

Despite the wealth of cases cited by Respondent's counsel, the matter of *In re Alonge*, 3 A.3d 771 (Pa.Ct.Jud.Disc. 2010) is conspicuously absent, despite striking similarities to the present matter. In that case, Judge Alonge exhibited inappropriate and overly familiar behavior with four female attorneys, subjecting them to unwanted personal questions and conversations that were "unprofessional" and made them uncomfortable. The judge was also charged for his interactions with a juvenile that had appeared before him for an underage drinking citation. Judge Alonge similarly

subjected this individual to unwanted personal questions and telephone calls and would often stop in to visit her while she was working as a waitress in a local restaurant. The Court in that instance found that Judge Alonge's behavior had brought the judiciary into disrepute, opining that Respondent's behavior was not merely "weird" or lacking in social graces, but coercive and akin to stalking behavior. In evaluating the judge's behavior, the Court placed particular emphasis on the ages of the women involved and the persistence of Judge Alonge in contacting them despite being told that it was unwelcome. Here, as in *Alonge*, Judge Saveikis targeted young individuals who would be impressed by the power of his office, and subjected them to unwanted personal attention by calling, texting, and visiting them at work or on assignments. Like in *Alonge*, he did so despite the knowledge that his conduct was not welcomed and despite warning to cease his behavior. Finally, and again, similarly, the conduct here involved multiple individuals and persisted over several years. As such, Judge Saveikis's behavior here is exactly the type of "persistent" and "coercive" behavior that brings the judicial office into disrepute. *Id.* at 782.

In support of their contention, counsel first cites to the matter of *In re Smith*, 687 A.2d 1229 (Pa.Ct.Jud.Disc. 1996) on the matter of "universal disrepute." In that case, Judge Smith had failed to timely adjudicate 61 cases, some of which were egregiously delayed, requiring the Court to take up the question of the type of conduct that would lower the public's "esteem or regard" for the judiciary. *Id.* at 1239. The Court opined that, in order to sustain a finding of disrepute, the conduct must affect the perception of the judiciary as a whole. In that case, the Court declined to make a finding of disrepute, finding that, although Judge Smith may have been brought down in the public's estimation, his conduct did not mar the reputation of the entire judiciary.

Respondent's counsel writes that the same reasoning could be applied to Judge Saveikis, citing his long history as a jurist with a good reputation. However, the case at issue is readily distinguishable from *Smith*. The violations at issue here are not solely technical rule violations, but also involve repeated out-of-court improprieties reflecting poorly on his fitness to continue serving in a judicial capacity. Judge Clark reports that she first met with Judge Saveikis in 2019 following the incident with W.B. and "strongly cautioned" him regarding this conduct. Despite a warning from his President Judge and a police investigation into his behavior, Judge Saveikis repeated his inappropriate behavior two additional times, this time with juveniles who were before him for legal infractions, taking the additional step of contacting these individuals outside of court and seeing them socially. This behavior, which was not only inappropriate but involved multiple rule violations, was apparently so concerning to Judge Clark that she took the extreme step of prohibiting him from hearing cases involving minors.

In the realm of private conduct which resulted in a finding of disrepute, counsel for Judge Saveikis cites to *In re Hamilton*, 932 A.2d 1030 (Pa.Ct.Jud.Disc. 2007). In that case, Judge Hamilton became intoxicated and assaulted the Chief of Police during a golf outing, resulting in both criminal charges and charges before the Court of Judicial Discipline. The *Hamilton* case referred to the "reasonable expectations of the public" in finding disrepute, noting that the public reasonably should expect their

judicial officers to "act with good judgment, with a modicum of dignity and with respect for all." *Id.* at 1034. Board counsel would submit to the Court that persisting in one's actions despite warning to desist demonstrates remarkably poor judgment, as does removing a 14-year-old child from a supervised activity in order to take him out socially, alone, an action for which there is no discernible, valid explanation. Furthermore, as noted in Respondent's omnibus motion, *In re Berry*, 979 A.2d 991 (Pa.Ct.Jud.Disc. 2009) requires that actions involving disrepute are evaluated as though the public is aware. Counsel would submit that Judge Saveikis's conduct here is so beyond the reasonable expectations of the public that it tends to bring the entire judiciary into disrepute.

Another case cited by Respondent in which the Court made a finding of disrepute is *In re Berkheimer*, 930 A.2d 1255 (Pa.Ct.Jud.Disc. 2007). In that case, Judge Berkheimer used inappropriate, offensive language with his staff over a period of several years. The Court found that his conduct "reflected poorly on the judiciary as a whole" and was "disrespectful to the judiciary and the public." *Id.* at 1259. The Court in that case wrote that "appellant's conduct occurred in the office, during working hours, and his staff had no choice but to endure his conduct. Appellant's offensive conduct cannot be separated from his judicial position." *Id.* at 1258. Although here Judge Saveikis's conduct occurred outside of the office, the Court's finding may easily be applied to the case at bar. In the cases of D.M. and Z.H., Judge Saveikis would not have had contact with either party but for their appearance before him in court. Likewise, some of the more offensive conduct occurred while the teenagers were completing a condition that Judge Saveikis had ordered in his official capacity. Additionally, Z.H. reported to police that, despite his discomfort with Judge Saveikis's actions, he "didn't know what to do because 'he is a judge.'" Finally, like in the *Berkheimer* case, this present case involves multiple incidents of misconduct over several years.


Respondent's counsel points to several additional cases in which disrepute was at issue, arriving at the ultimate conclusion that a finding of disrepute is made on a case-by-case basis and requires a finding of universality. Board counsel does not disagree but differs on the application of those cases to Judge Saveikis's misconduct. The misconduct at issue here involves both in- and out-of-court conduct that is inseparable from Judge Saveikis's position as a judge and constitutes a pattern of misconduct spanning several years. In two out of the three incidents cited, Judge Saveikis identified the target of his behavior due to their presence before him in court and sought them out during court-ordered community service assignments. In the case of Z.H., he took the further step of removing him from his post without permission. Following the incident with W.B. in 2018, Judge Saveikis was investigated by Allegheny County law enforcement, and knew or should have known going forward that his conduct toward juveniles was unacceptable and unwanted. On the contrary, Judge Saveikis's conduct become more egregiously improper after this incident. It also cannot be overstated that the conduct at issue concerns children under the age of 18, two of whom were before him due to legal troubles, who were more than aware that the individual harassing them was the same individual presiding over their court case.

For the foregoing reasons, the Board respectfully requests that this Court deny Judge Saveikis's Omnibus Motion with respect to Judicial Conduct Rule of Procedure 15, the affirmative defense of laches, and the issue of disrepute.

Respectfully submitted,
MELISSA L. NORTON
Chief Counsel

DATE: February 20, 2024

By:


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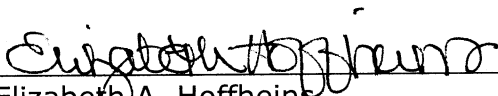
VERIFICATION

I, Elizabeth A. Hoffheins, Deputy Counsel to the Judicial Conduct Board, verify that the facts set forth in the foregoing Motion and attached Memorandum of Law are true and correct to the best of my knowledge, information, and belief. 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,

MELISSA L. NORTON
Chief Counsel

DATE: February 20, 2024

By: 
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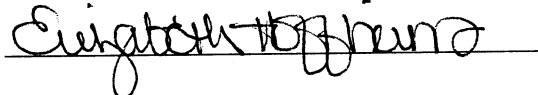
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CERTIFICATE OF COMPLIANCE

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: ELIZABETH A. HOFFHEINS
Deputy Counsel
Attorney No.: 209623

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PROOF OF SERVICE

In compliance with Rule 122 of the Court of Judicial Discipline Rules of Procedure, on February 20, 2024, a copy of the *Board's Reply to Judge Saveikis's Omnibus Motion and accompanying Memorandum of Law* was sent by UPS Overnight mail to Judge Saveikis's attorney(s), Robert Del Greco, David Shrager, and Sam Stretton at the following addresses:

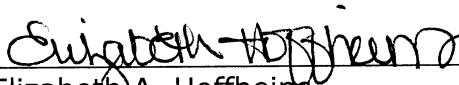
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Respectfully submitted,

DATE: February 20, 2024



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