

COMMONWEALTH OF PENNSYLVANIA  
COURT OF JUDICIAL DISCIPLINE

IN RE: : 1 JD 2018  
:  
WILLIAM I. MARUSZCZAK :  
MAGISTERIAL DISTRICT JUDGE :  
MAGISTERIAL DISTRICT 38-1-09 :  
38<sup>TH</sup> JUDICIAL DISTRICT :  
MONTGOMERY COUNTY :

BRIEF OF THE RESPONDENT, JUDGE WILLIAM I. MARUSZCZAK

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COURT OF JUDICIAL DISCIPLINE  
OF PENNSYLVANIA

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## I. PROCEDURAL AND FACTUAL HISTORY

The Respondent, Judge William Maruszczak, is a duly elected Magistrate District Judge in Magisterial District 38-1-09 in Montgomery County, Pennsylvania. He has served there as the elected judge since 1997, for twenty-one years.

On February 27, 2018, a complaint for discipline was filed with the Court of Judicial Discipline by the Judicial Conduct Board and docketed at 1 JD 2018. The complaint contained several different sections. The first allegation involved improper campaign conduct. Paragraphs eight through twenty-six involved Judge Maruszczak's disagreement with Marcene Rogovin, who he had believed was a friend, but who had worked against him during the Primary Election Day on May 19, 2015 and the General Election Day on November 4, 2015.

The second allegation involved that of Robert DeFelice, an acquaintance and friend of Judge Maruszczak. This is found at paragraphs twenty-six through sixty-five of the Compliant in Discipline, and in essence, alleges Judge Maruszczak helped Mr. DeFelice fill out a civil complaint and drove him to the District Judge's office where Judge Maruszczak waited outside the Courtroom while Mr. DeFelice had his hearing. The complaint also alleged Judge Maruszczak drove to Mr. DeFelice's polling place on May 19, 2018 where an argument occurred since Judge

Maruszczak believed Mr. DeFelice was supporting and working for Judge Maruszczak's opponent in the Primary Election.

The third complaint involved that of Carole Kenney, which is found at paragraphs sixty-six to seventy-seven of the complaint. Ms. Kenney is a Supervisor in Upper Merion Township. This count involved Judge Maruszczak confronting Ms. Kenney when she was campaigning in front of his house for his political opponent. Judge Maruszczak believed she was a friend of his and he expressed his disbelief and dissatisfaction that she would work against him and support his political opponent.

The next section alleged the failure of Judge Maruszczak to recuse himself from cases involving a landlord, Jalil Bami. These allegations are found at paragraphs seventy-eight through eighty-seven of the complaint. Mr. Bami had been a minor contributor to Judge Maruszczak's campaign. Judge Maruszczak has stayed one night with his wife at Mr. Bami's condominium in Cape May. Judge Maruszczak participated in overseeing the mediation of a settlement between Mr. Bami and his girlfriend where the girlfriend's counsel was also present on August 26, 2016. There were also a number of citations issued against Mr. Bami in 2015 and 2016 for false alarms, which were listed before the Respondent, Judge Maruszczak.

Judge Maruszczak, in the complaint, was charged in Count 1 with violating Rule 4.2(A)(1) of the Rules of Conduct for a

Magisterial District Judge which alleges a judge shall not engage in political or campaign activity that is inconsistent with the independence, integrity, and impartiality of the judiciary. The charges covered the public confrontations between Judge Maruszczak with Ms. Rogovin, Mr. DeFelice and Ms. Kenney.

In Court, 2, Judge Maruszczak was charged with violating Magisterial Rule of Conduct 1.2 concerning promoting confidence in the judiciary. This involved the same public confrontations with Ms. Rogovin, Mr. DeFelice and Ms. Kenney.

The next was Count 3 where Judge Maruszczak was charged with violating Rule 2.11(A)(1) involving disqualification, that a judge should disqualify himself or herself where their impartiality might be questioned. This count involved the cases of Mr. Bami.

Count 4 involved Rule 1.1, requiring compliance with the law. The factual basis for this charge was the violations of Rules 1.2 and 4.2 referenced above.

Judge Maruszczak was charged in Count 5 with violating Article V, Section 17(b) of the Pennsylvania Constitution, which precludes violation of the Code of Judicial and/or Magisterial District Judge conduct.

Judge Maruszczak was also charged in Count 6 with violation of the Pennsylvania Constitution, Article V, Section 18(d)(1), alleging bringing the judicial office into disrepute.

Judge Maruszczak filed a timely Answer to the complaint and in his Answer he denied the violations.

Judge Maruszczak had also filed a request to be placed in the diversionary program utilized by the Court of Judicial Discipline, but that request was denied by the Court.

Subsequently there was a Pre-Trial Conference. The Conference Judge was the Honorable John H. Foradora. By Order dated July 30, 2018, Judge Foradora set a timetable for stipulations to be filed by September 21, 2018. Briefs are to be filed by November 6, 2018. The stipulations are attached and marked as Exhibit "A". As part of the stipulations, as reflected in footnote one, on page 6 of Exhibit "A", the Judicial Conduct Board agreed not to present any evidence or move forward on the Part B allegations in the complaint involving failure to recuse on Mr. Bami's cases, and Count Four involving the unauthorized practice of law.

## II. STIPULATIONS OF FACT

Since there was no hearing or evidence presented but only a stipulation, the only findings of fact would be through the Joint Stipulations of Fact in Lieu of Trial. These Joint Stipulations of Fact, which were entered on August 16, 2018 between the Judicial Conduct Board and Judge Maruszczak, are attached and marked as Exhibit "A" to this Brief and incorporated by reference as the agreed to findings of fact.



### III. ARGUMENT

The Respondent, Judge William Maruszczak, who has served twenty-one years as a District Judge in Montgomery County, has cooperated with the Judicial Conduct Board and entered into a detailed Joint Stipulation (Exhibit "A") concerning his conduct. The first part of the stipulation is the conduct on Election Day of Judge Maruszczak toward Marcene Rogovin.

Judge Maruszczak had a longtime friendship with Ms. Rogovin through her now deceased husband, Charles Rogovin. Judge Maruszczak, who is not a licensed lawyer, but a graduate of Temple School of Law, had become very close friends with Charles Rogovin when Mr. Rogovin was his professor, and they continued to see each other regularly throughout the years (Stipulations 7, 8 10). It was agreed in the stipulation when Judge Maruszczak discovered on May 19, 2015 that Ms. Rogovin was working for his opponent during the Primary Election, Judge Maruszczak went to her polling place (Stipulation 10). At that polling place, he saw that Ms. Rogovin was working as a volunteer for his opponent in the Democratic Party (stipulations 11, 12, 13, 14). Judge Maruszczak raised his voice at the polling place and accused her of supporting his opponent, and indicated "this is my livelihood." (Stipulations 13, 14, 16). Judge Maruszczak then told her he probably was going to call her husband, and in fact, did attempt to telephone her husband but

was unsuccessful in reaching him (Stipulations 16, 17, 18).

Judge Maruszczak left a voicemail asking her husband to tell Ms. Rogovin to stop campaigning against him (Stipulation 18).

On the General Election Day on November 4, 2015, Judge Maruszczak found out that Ms. Rogovin again was supporting his opponent (Stipulation 19, 20). He left a voicemail on her telephone to his friend, Charles Rogovin, the retired law school professor, complaining that his wife was working against him (Stipulation 20, 22). Judge Maruszczak, in the voicemail, threatened to hold a press conference and reveal Mr. Rogovin's wife covered up an incident involving the D.U.I. arrest of another judge (Stipulation 22).

From a human side, one can understand Judge Maruszczak's anger, disappointment and sense of betrayal when persons whom he thought were close friends now had turned and were working against him. But, from a judicial standpoint as a sitting judge, although he is entitled to voice his dissent quietly to Ms. Rogovin, he cannot do it in a public fashion at a polling place where he raised his voice and accused her of disloyalty. Further, he cannot leave a threatening phone message, which he did after the General Election. As much as one can understand the human aspect of his disappointment, Judge Maruszczak agrees his conduct was not acceptable. Rule 1.2 of the Magisterial District Judge Rules, requires a judge shall act at all times in

a manner that promotes public confidence in the independence, integrity and impartiality of the judiciary, and avoids the appearance of impropriety. It appears that Judge Maruszczak's conduct in the polling place with Ms. Rogovin during the May 19, 2015 Primary Election and the November 4, 2015 General Election in raising his voice, and his subsequent November voicemail to Charles Rogovin raised questions as to his promoting public confidence in the independence, integrity and impartiality of the judiciary. A sitting judge should not condemn someone publicly in a raised voice in a polling place for supporting another candidate no matter how painful that support may be because of the past friendship. The conduct, while occurring off the bench, should not have occurred. Although one could technically argue the conduct was a private matter, Judge Maruszczak accepts responsibility and would accept a violation of rule 1.2 of the District Judge Standards of Conduct.

Similarly, Rule 4.2 of the Magisterial District Judge Rules requires a candidate for judge to act at all times consistent with the independence, integrity and impartiality of the judiciary. It appears that the stipulated to conduct described above in Exhibit "A" similarly violated Rule 4.2(a)(1). Judge Maruszczak accepts responsibility.

Similarly, the stipulation notes that Judge Maruszczak and Mr. DeFelice were acquainted and were friends for approximately

twenty years (Stipulations 24, 25). They were friends to the extent that Judge Maruszczak showed Mr. DeFelice how to fill out the form for District Court civil complaints, and even went with Mr. DeFelice to another Magisterial District Judge's Courtroom, although Judge Maruszczak sat outside while Mr. DeFelice presented his case (Stipulations 26, 27, 28, 29, 30). The stipulation notes that Mr. DeFelice during the 2015 Primary Election, would not return Judge Maruszczak's calls or requests for assistance in the election (Stipulations 36, 37). As a result, on the Primary Election Day of May 19, 2018, Judge Maruszczak went to Mr. DeFelice's polling place (which was outside the Judicial District), when he had an argument and raised his voice because Mr. DeFelice had not helped him, and called Mr. DeFelice a "Judas Iscariot" and a liar (Stipulations 42, 43, 44, 45). Again, this was done publicly outside the polling place.

From a human standpoint and in Judge Maruszczak's defense, it is hard to understand friends and people he had helped then betraying him and working for his judicial opponent. But, a judge has to be above that kind of human anger because of his judicial position. It is understandable from a human viewpoint, but not acceptable conduct by a judicial officer in a public setting. Therefore, Judge Maruszczak accepts responsibility for his confrontation with Mr. DeFelice at the public polling place.

He accepts violating Rule 4.2(A)(1) and Rule 1.2 of the Magisterial District Judge's Code of Conduct.

The third matter involves an Upper Merion Township Supervisor who Judge Maruszczak had known over the years and who Judge Maruszczak thought was friendly with him (Stipulations 48, 49, 50). Judge Maruszczak stipulated on October 31, 2015, several days before the General Election in which Judge Maruszczak was running as a candidate for District Judge, he saw Ms. Kenney, who was actually standing in front of Judge Maruszczak's house and soliciting voters on behalf of Judge Maruszczak's opponent, an attorney names Ian Kingsley (Stipulations 51, 52). From a human standpoint, Judge Maruszczak, understandably, was upset that she was campaigning against him in front of his own house. Judge Maruszczak was outside and told her he was upset and surprised that she was supporting Mr. Kingsley and campaigning in front of his own house (Stipulation 52).

If Judge Maruszczak had left it at that, there would have been no violation of the above Rules. Unfortunately, his anger got the best of him and he said something to the effect, "If something bad happened Ms. Kenney in the future, she would know why." (Stipulation 54). When Ms. Kenney asked if the judge was threatening her, he said he thought they were friends (Stipulation 56). Judge Maruszczak then as Ms. Kenney was

leaving, expressed disbelief that she was supporting his opponent and told her that there would "be paybacks for her actions." (Stipulation 59).

Because those statements were made in public in front of his house, the Respondent will accept violating the finding of violation of Rule of Magisterial District Court, Rule 4.2(A)(1), and Rule 1.2. He agrees this expression of anger was not acceptable for a sitting judge.

As noted above in the Stipulations of Fact (Exhibit "A"), the Judicial Conduct Board has agreed not to pursue the allegations of Judge Maruszczak's failure to recuse himself in the cases involving Jalil Bami. The Judicial Conduct Board has also chosen not to present any evidence or proceed on the unauthorized practice of law allegations as set forth in Count Four. Therefore, Counts three and four should be dismissed since the Judicial Conduct Board is not proceeding on these allegations by agreement.

Further, there is an allegation of violation of Article V, Section 17(b) of the Pennsylvania Constitution concerning the fact that District Judges are governed by the Canons for the conduct of District Judges. By the admission of the above violations, that provision would be violated.

Finally, Judge Maruszczak emphatically denies violating Count Six, Article V, Section 18(d)(1) of the Pennsylvania

Constitution alleging that he brought the judiciary into disrepute. Judge Maruszczak contends that the Stipulated Facts do not rise to the level of bringing the judicial office into disrepute, in violation of Article V, Section 18(d)(1) of the Pennsylvania Constitution. An examination of the constitutional language and some of the pertinent cases are now necessary:

"A justice, judge or justice of the peace shall be subject to disciplinary action pursuant to this section as follows...or brings the judicial office into disrepute, whether or not the conduct occurred while acting in a judicial capacity or is prohibited by law; or conduct in violation of Canon or Rule prescribed by the Supreme Court." [See Article V, Section 18(d)(1) of the Pennsylvania Constitution].

A finding of disrepute is a very serious violation. In fact, under Article V, Section 16 of the Pennsylvania Constitution, a judge who is found in violation of that provision is prohibited from receiving salary, retirement benefits or compensation, present or deferred. In other words, a finding of disrepute is one of the most serious of violations and is sort of the death penalty of judicial discipline. The harshness of this provision suggests that this disrepute violation should only be used in the most severe cases of judicial misconduct.

In evaluating this matter, it should be noted pursuant to the stipulation, there is no allegation of misconduct on the bench. None of the provisions have anything to do with Judge Maruszczak's conduct as a judge sitting and hearing cases, have nothing to do with his treatment of his judicial staff, and have nothing to do with his treatment of litigants.

These matters essentially fall into the category of someone who felt betrayed by friends and acquaintances and who,

unfortunately, expressed his transient anger at public polling places on Election Day, and also made angry threats that were never carried out, but said in a moment of either anger or disappointment. There were very few people who observed the three incidents. Whoever was present with Ms. Kenney in front of Judge Maruszczak's house, whoever was standing at the polling place with Mr. DeFelice or whoever was standing at the polling place with Ms. Rogovin are not known or referenced. The telephone threats were privately made to the Rogovin's and not made in the presence of anyone else.

In reviewing this matter in terms of violations, it should be noted that it was stipulated that Judge Maruszczak has been a District Judge for twenty-one years without prior incident. The constitutional violation of disrepute has been expanded and discussed in a number of court decisions over the years. In the case of In re Smith, 687 A.2d 1229 (Pa. Ct. Jud. Disc., 1996), Judge Smith of Bradford County failed to make timely decisions on sixty-one cases over several years. Despite this very serious misconduct, the Court of Judicial Discipline found the conduct did not bring the judicial office into disrepute. Judge Smith received a reprimand. What is interesting about the decision is what the Court of Judicial Discipline defined is needed for a finding of disrepute.

"The judicial function can only be performed when the public accedes to its authority. The preservation of the authority of the office requires that judges conduct themselves so that public confidence in the judiciary is undiminished and the judicial authority is therefore maintained." Id 1238.

The Court of Judicial Discipline then set forth that the Judicial Conduct Board must make a persuasive showing that the judicial officer engaged in conduct that is so extreme that it



resulted in bringing the judicial office into disrepute. The Court of Judicial Discipline stated it cannot be presumed that a violation of the Rules lowers the acceptance of the power and dignity of the judicial office. The Court of Judicial Discipline then defined disrepute using a dictionary definition as a lack of or a decline of a good reputation. Id 1239.

“Even if a judicial officer’s action could reasonably result in the lessening of the respect of that judge, it cannot be presumed that the same action would necessarily bring the judicial office itself into disrepute...In other words, that the wrongful actions of the judicial officer are capable of bringing the judicial office into disrepute is only the first step in the inquiry. The second step is that, in fact, universal disrepute resulted.” Id 1239.

The Court of Judicial Discipline then in the Smith case addressed how the prosecutor, the Judicial Conduct Board, could prove its case. The Court referenced libel law. The Court used the example of when a publication tends to blacken a person’s reputation or expose them to ridicule and what would have to be proven. The Court noted in the case with Judge Smith, which involved his extensive delay in his decision making, that the evidence or stipulations offered no conclusion that Judge Smith’s activities brought the judicial office into disrepute.

Although Judge Maruszczak did his own reputation no good by raising his voice at three former friends in public with some name calling, there were very few people present, there were no newspaper stories about the matter, the alleged threats were

never carried out and were done only in a general statement to Ms. Kenney or done privately on a telephone message to Ms. Rogovin. None of this conduct had anything to do with Judge Maruszczak's judicial duties or responsibilities. In essence, the stipulated evidence showed a man who lost his temper due to his what he believed were betrayals by friends. Judge Maruszczak agrees because of his judicial position, this was not acceptable conduct. But, there is no evidence in the stipulation that would demonstrate a finding of or evidence of universal disrepute.

A case where there was a finding of disrepute is the case of In re Trkula, 699 A.2d 3 (Pa. Ct. Jud. Disc., 1997). In that case, Judge Trkula was found to have brought his office into disrepute when he made telephone calls about statutory appeals cases before him, trying to influence the decision making of the Court of Common Pleas. This obviously was very serious misconduct by a judge who, using his judicial office on cases that had been appealed, was trying to interfere with the decisions being made by the Court of Common Pleas. The Court of Judicial Discipline noted that reasonable expectations of the public would include the expectation that a judicial officer would not make an overt ex parte attempt to influence the outcome of a case on appeal from his or her Courtroom. The Court of Judicial Discipline noted this conduct would undermine

the appellate process and was so extreme that it brought the judicial office into disrepute. Clearly, that is a classic example of facts that support disrepute when the judicial officer undermined the integrity of the judicial office and tried to fix cases. That is a far cry from what Judge Maruszczak is accused of, i.e., losing his temper when he thought his friends betrayed him at the polling place.

In the case of In re Zoller, 792 A.2d 34 (Pa. Ct. Jud. Disc., 2002), the judge was found to have brought the judicial office into disrepute by using improper and profane language in a Courtroom. The absolutely obscene language was made to constables during an arraignment while the judge was in his Courtroom. In that case, the Court of Judicial Discipline made a distinction between conduct that occurred in the Courtroom and conduct that occurred outside the Courtroom. The Court noted that if the judge had used such language off the bench, the decision might be different. This kind of crude and uncivil language was totally uncalled for and affected the dignity of the Court since it was done by the judge from the bench and in the public Courtroom. In Judge Maruszczak's case, none of his conduct occurred in the Courtroom. Although he did not use obscene language, he did raise his voice and he did some name calling. Again, the Zoller case supports that Judge Maruszczak should not be found in disrepute.

In the case of In re Nakoski, 742 A.2d 260 (Pa. Ct. Jud. Disc., 1999), there was no finding of disrepute. The agreed to misconduct occurred during a judicial education course when pursuant to questions from the instructor, the District Judge made comments concerning all black people are in jail and they are the ones doing burglaries and robberies. The Court interpreted those as quasi racial statements. But, the Court made no finding of disrepute, indicating that the misconduct occurred during the educational classes and only District Judges were present.

In the present case, the comments were at the polling place where only a few people were present. There were no racial statements whatsoever.

In the case of In re Toczydlowski, 853 A.2d 24 (Pa. Ct. Jud. Disc., 2004), a judge possessed a small amount of marijuana on two occasions and received a public reprimand. The judge had an otherwise exemplary record on the bench. The judge had been criminally charged and placed in the A.R.D. program. The Court of Judicial Discipline noted that although the judge's reputation had been injured by the arrest, the Court also noted the judge entered a rehabilitation program. The Court found there was no conduct that brought the office into disrepute. The Court also had noted in the finding of no disrepute, the long length of good service by the judge.

Similar comments can be made here. Nothing Judge Maruszczak did brought his judicial office into disrepute and he similarly had twenty-one years of good service as a judge.

A case where a judge was found in disrepute for conduct off the bench is the case of In re Hamilton, 932 A.2d 1030 (Pa. Ct. Jud. Disc., 2007). The Hamilton case involved a District Judge who went to a golf outing and became very drunk. He then had an argument with a police officer and beat up the Police Chief in public. There were newspaper articles about the situation. The Court, in Hamilton, discussed when conduct rises to a constitutional level of disrepute is to be decided on a case by case basis.

"The determination of whether a particular conduct has brought the judicial office into disrepute, of necessity, is a determination which must be made on a case by case basis as the particular conduct in each case is scrutinized and weighed." Id 1033, 1034.

The Court noted that a finding of disrepute necessarily incorporates some standards with regards to the reasonable expectation of the public of a judicial officer's conduct. The Court noted as follows:

"We believe that the reasonable expectations of the public would include the expectation that a member of the judiciary, elected, as he is, to enforce the law, would not violate them...and do so on a public stage...We believe that the reasonable expectations of the public would include the expectation that a judicial officer will not act lawlessly by provoking a fist fight in the midst of a party being held at a local golf club and then commit

assault and battery on a member of the local community.”  
Id 1034.

In that case, Judge Hamilton had also said to another guest that he “had enough of your shit” and “I’m going to knock your ass.” The Court found that Judge Hamilton’s conduct was so extreme as to bring the judicial office into disrepute.

Clearly, Judge Hamilton’s conduct was far more extreme than Judge Maruszczak. Judge Maruszczak was not drunk, he was not at a party, he was not fighting a police officer, he was not doing unprovoked assaults. Judge Maruszczak’s conduct, although part of being angry, was the result of friends betraying him. His problem was he did not appreciate that as a sitting judge, he could not express that anger publicly in the fashion in which he did. Therefore, it would appear that Judge Hamilton’s case is distinguishable.

In the case of In re DeLeon, 967 A.2d 460 (Pa. Ct. Jud. Disc., 2009), Judge DeLeon, without any matter before him and only after meeting an individual at a social affair, prepared an ex parte order so that another individual would be precluded from having any contact with the social acquaintance’s daughter. This was done ex parte without any judicial proceedings or papers filed, and without any opportunity to be heard. Although the Court of Judicial Discipline initially found such conduct brought the judiciary into disrepute, after Exceptions, the

Court reversed itself and dismissed the complaint of judicial disrepute. The Court of Judicial Discipline had reservations about a disrepute finding except for the most serious misconduct, and also possible concerns what the finding would have on the judicial pension.

In the case of In re Cicchetti, 697 A.2d 297 (Pa. Ct. Jud. Disc., 1997), Judge Cicchetti was charged with a number of sexual harassment allegations and executing false campaign affidavits. The Court of Judicial Discipline noted that it would not presume that a violation of any provision automatically lowered the public's acceptance of the authority of the judicial office. Id 312. The Court of Judicial Discipline noted as follows:

"Disrepute necessarily incorporates some standard with regard to the reasonable expectations of the public of a judicial officer's conduct. Even if a judicial officer's conduct could reasonably result in a lessening of respect for that judge, it cannot be assumed that the same actions would necessarily bring the judicial office into disrepute." Id 312.

The Court of Judicial Discipline then noted that the determination of whether a judicial officer brought his office into disrepute is a determination made on a case by case basis. The Court then stated as follows:

"To sustain a charge under this section, the Board must make a persuasive showing that: (1.) the judicial officer has engaged in conduct that is so extreme that (2.) it has resulted in bringing the judicial office into disrepute." Id 312.

The Court of Judicial Discipline found that Judge Cicchetti's conduct toward the female probation officer was so persistent, so coercive and so extreme, it brought the judicial officer into disrepute.

There have been other cases where judicial officers have been found in disrepute. A classic example is In re Merlo, 58 A.3d 1 (Pa., 2012). In that case, there were numerous acts of misconduct by Judge Merlo in terms of demeanor, missing half the year from her judicial duties due to campaigning, not showing up on time for many hearings, yelling at litigants, etc. The facts in Merlo are far beyond what Judge Maruszczak has admitted to.

Recently, in the case of In re Shaw, 192 A.3d 350 (Pa. Ct. Jud. Disc., 2018), the judge was found to be in disrepute by flirting with and making sexual comments to a girlfriend of a participant of the Drug Court which the judge presided over. There were also other serious acts of misconduct. The Court found the fact of a judge engaging in secret sexual relations with the girlfriend of a defendant appearing before him is sufficiently shocking as to amount to a finding of disrepute. Id 371. Certainly, this case is very distinguishable from Judge Maruszczak's situation, particularly since it involved only off the bench conduct.



Also, in the case of In re Jennings, 192 A.3d 372 (Pa. Ct. Jud. Disc., 2018), a judge was found to be in disrepute for a conviction of criminal coercion connected to his judicial duties. This involved pressuring constables working for the judge to contribute a percentage of their constable earnings to the judge's reelection. This was a case of using a judicial office for personal gain and clearly is distinguishable from Judge Maruszczak's case.

In conclusion, the Judicial Conduct Board has failed in its burden by clear and convincing evidence to show that Judge Maruszczak is in violation of the constitutional standard for disrepute. There is no universal disrepute here, nor any evidence suggesting the same. Judge Maruszczak has accepted responsibility for his angry conduct to persons he considered former friends. He has served on the bench for twenty-one years in an otherwise excellent fashion. There is no evidence that this conduct brought the judicial office into universal disrepute.

Therefore, Judge Maruszczak, by his counsel, Samuel C. Stretton, Esquire, respectfully requests this Honorable Court

discharge Count Six requesting a finding of disrepute, and only make findings of Rules 1.2 and 4.2(a)(1).

Respectfully submitted,



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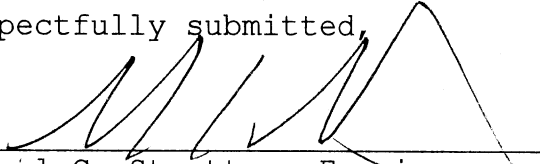
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MAGISTERIAL DISTRICT 38-1-09 :  
38<sup>TH</sup> JUDICIAL DISTRICT :  
MONTGOMERY COUNTY :

CERTIFICATE OF COMPLIANCE

I, Samuel C. Stretton, Esquire, certify that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.

Respectfully submitted,



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10/31/18  
Date

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38<sup>TH</sup> JUDICIAL DISTRICT :  
MONTGOMERY COUNTY :

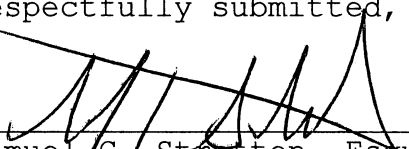
CERTIFICATE OF SERVICE

I hereby certify I am this date serving a copy of the foregoing Brief of the Respondent, William I. Maruszczak, in the captioned matter upon the following persons in the manner indicated below.

Service by email and First-Class Mail addressed as follows:

1. James P. Kleman, Jr.  
Deputy Counsel  
Judicial Conduct Board  
Pennsylvania Judicial Center  
601 Commonwealth Ave., Suite 3500  
P.O. Box 62525  
Harrisburg, PA 17106
2. William I. Maruszczak  
200 West Main Street  
Norristown, PA 19401

Respectfully submitted,

  
\_\_\_\_\_  
Samuel C. Stretton, Esquire  
Attorney for the Respondent,  
William I. Maruszczak  
103 South High Street  
P.O. Box 3231  
West Chester, PA 19381-3231  
(610) 696-4243  
Attorney I.D. No. 18491

10/31/18

\_\_\_\_\_  
Date

**COMMONWEALTH OF PENNSYLVANIA  
COURT OF JUDICIAL DISCIPLINE**

IN RE:

William I. Maruszczak	:	
Magisterial District Judge	:	
Magisterial District 38-1-09	:	1 JD 2018
38 <sup>th</sup> Judicial District	:	
Montgomery County	:	

**JOINT STIPULATIONS OF FACT IN LIEU OF TRIAL AND WAIVER OF TRIAL  
PURSUANT TO COURT OF JUDICIAL DISCIPLINE RULE OF PROCEDURE 502**

AND NOW, this 15 day of August, 2018, comes the Judicial Conduct Board of the Commonwealth of Pennsylvania (the Board), and Magisterial District Judge William I. Maruszczak, by and through their undersigned counsel, and files these joint stipulations of fact in lieu of trial pursuant to C.J.D.R.P. No. 502, as follows:

**JOINT STIPULATIONS OF FACT IN LIEU OF TRIAL**

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 the RGSCMDJ 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.

Exhibit "A"

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 election day, 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 the appropriate district court in Ardmore.
28. Mr. DeFelice accepted Judge Maruszczak's offer of assistance at some point in February 2015.
29. Based upon MDJ 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 called Mr. DeFelice 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 Kenney is an Upper Merion Township Supervisor.
  49. Judge Maruszczak and Mrs. Kenney 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 Judge Maruszczak's opponent, Ian Kingsley.
  52. Judge Maruszczak confronted Mrs. Kenney and told her that he was surprised and disappointed that 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 happened 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 that 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 her actions.<sup>1</sup>

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James P. Kleman, Jr.  
Deputy Counsel  
Pa. Supreme Court ID No. 87637

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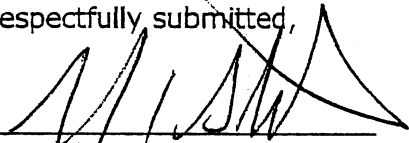
Melissa L. Norton  
Deputy Counsel  
Pa. Supreme Court ID No. 46684

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

*Counsel for the Board*

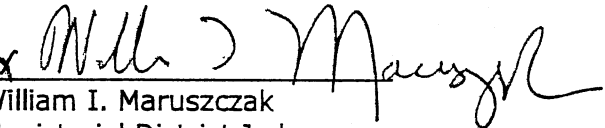
DATE: August 16, 2018

Respectfully submitted,



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Samuel C. Stretton  
103 South High Street  
P.O. Box 3231  
West Chester, PA 19381-3231  
Pa. Supreme Court ID. No. 18491  
*Counsel for Respondent*



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

*Respondent*

---

<sup>1</sup> If these stipulations and waiver are accepted by this honorable Court, the Board will forego presenting evidence or proceeding further regarding the factual matters presented at Part B of the Board Complaint (failure to recuse from matters involving Jalil Bami) and their corresponding charges, and it will forego presenting evidence or proceeding further regarding the charges at Count 4, paragraph 107 of the Board Complaint (regarding the unauthorized practice of law).

**WAIVER OF TRIAL**

The parties hereby agree that the aforementioned joint stipulations of fact constitute the binding factual record necessary for this Court to reach a decision on the issues presented in this case by the Board's Complaint. Based upon these stipulations, the parties hereby waive their right to trial on the factual issues of this case and hereby submit this case to the Court for its legal conclusions on the issues.

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James P. Kleman, Jr.  
Deputy Counsel  
Pa. Supreme Court ID No. 87637

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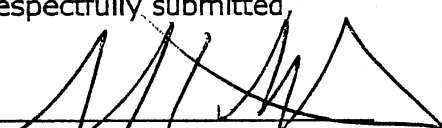
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*Counsel for the Board*

DATE: August 16, 2018

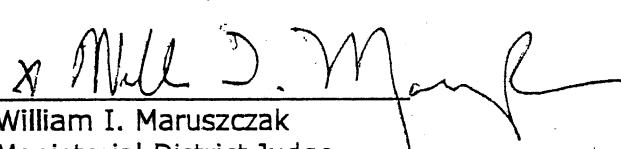
Respectfully submitted,



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West Chester, PA 19381-3231  
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*Counsel for Respondent*



---

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Magisterial District Judge  
Magisterial District Court 38-1-09  
Montgomery County

*Respondent*

**COMMONWEALTH OF PENNSYLVANIA  
COURT OF JUDICIAL DISCIPLINE**

IN RE:

William I. Maruszczak :  
Magisterial District Judge :  
Magisterial District 38-1-09 : 1 JD 2018  
38<sup>th</sup> Judicial District :  
Montgomery County :

**CERTIFICATE OF COMPLIANCE**

We certify that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* 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

Signature: \_\_\_\_\_

Name: Melissa L. Norton  
*Deputy Counsel*

Attorney No.: 46684

**COMMONWEALTH OF PENNSYLVANIA  
COURT OF JUDICIAL DISCIPLINE**

IN RE:

William I. Maruszczak :  
Magisterial District Judge :  
Magisterial District 38-1-09 : 1 JD 2018  
38<sup>th</sup> Judicial District :  
Montgomery County :

**PROOF OF SERVICE**

In compliance with Rule 122 of the Court of Judicial Discipline Rules of Procedure, on August \_\_\_\_, 2018, a copy of the Joint Stipulation of Fact in Lieu of Trial and Waiver of Trial was provided by first class mail to Samuel C. Stretton, Esquire, counsel for former Judge Maurszczak, at the following address:

Samuel C. Stretton, Esquire  
103 South High Street  
P.O. Box 3231  
West Chester, PA 19381-3231

Respectfully submitted,

DATE: August \_\_\_\_, 2018

\_\_\_\_\_  
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