

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, WILLIAM I. MARUSZCZAK,  
ON THE NATURE OF DISCIPLINE

The Respondent, William I. Maruszczak, by and through his counsel, Samuel C. Stretton, Esquire, hereby submits this short Brief on the issue of sanctions.

The Court of Judicial Discipline, by Opinion dated January 9, 2019 in Counts One and Two, concluded that Judge Maruszczak violated the Standards of District Judges, Rule 4.2(a)(1) in that he failed to act in a manner consistent with the independence, integrity and impartiality of the judiciary. This was in reference to Count One.

As to Count Two, the Court of Judicial Discipline found that Rule 1.2 was violated in that Judge Maruszczak failed to promote public confidence in the independence, integrity and impartiality of the judiciary, and failed to avoid impropriety and the appearance of impropriety.

In Count Five, the Court of Judicial Discipline found that Judge Maruszczak violated Article V, Section 17(b) of the Pennsylvania Constitution in that he violated the Rules of the

Standards of a District Judge. The Court of Judicial Discipline did not find a violation of Article V, Section 18(d)(1) involving bringing the judicial office in disrepute.

The misconduct arose out of campaign conduct when Judge Maruszczak was seeking reelection to his District Judgeship. The first incident occurred on Primary Election Day, May 19, 2015 when Judge Maruszczak traveled to an election polling place where Marcene Rogovin was working on behalf of Judge Maruszczak's opponent. Judge Maruszczak was angry and shocked that Ms. Rogovin was working against his reelection since he was a close friend of her husband. He raised his voice and told her she was working against his livelihood. Judge Maruszczak said he would call her husband and left a voicemail for Ms. Rogovin's husband, Charles Rogovin, that Ms. Rogovin was working against him, and he should stop her. During the November General Election, when Judge Maruszczak found Ms. Rogovin was again working against him, he left a voicemail for Ms. Rogovin. The voicemail said something to the effect that he would hold a press conference and accuse her of covering up a drunk driving accident by another former judge.

The second underlying case involved Robert DeFelice, a person Judge Maruszczak had known for twenty years. Judge Maruszczak had helped Mr. DeFelice fill out a civil complaint form. Judge Maruszczak accompanied Mr. DeFelice to another

District Court, but did not enter the Courtroom. Mr. DeFelice represented himself and lost the trial. In the months leading up to the 2015 Primary Election, Judge Maruszczak left several notes for Mr. DeFelice to ask for his assistance in the Primary Election. Mr. DeFelice did not respond. Judge Maruszczak then discovered Mr. DeFelice was supporting his opponent in the Primary Election. On Primary Election Day, Judge Maruszczak went to the polling place where Mr. DeFelice was working. In public, Judge Maruszczak raised his voice and called Mr. DeFelice a Judas Iscariot and claimed Mr. DeFelice was a liar. He claimed Mr. DeFelice worked for his opponent and stole Judge Maruszczak's political yard signs.

The final problem involved Carole Kennedy, who was an Upper Merion Township Supervisor. Judge Maruszczak had contact with Ms. Kennedy over the years. They had worked together on several legislative projects. On October 31, 2015, several days before the General Election, Ms. Kenny was campaigning in the same neighborhood where Judge Maruszczak lived. She then stopped in front of his house, seeking political support for Judge Maruszczak's opponent. Judge Maruszczak came out and told her he was disappointed in her. Judge Maruszczak, in public, told Ms. Kennedy that if something bad happened to her in the future, she would know why. When she left, Judge Maruszczak told her there would be a pay back for her actions for not supporting him.

The question is, what should be the nature of the sanction? Judge Maruszczak has been a District Judge since 1997. He has served with distinction. He is a former police officer. He is also someone who is very interested in increasing his knowledge and learning. Judge Maruszczak has gone back to school and received a law degree, and has other Master's Degrees, such as a Master's in Business Administration, among others.

A number of witnesses will be presented at the hearing as to Judge Maruszczak's excellent character and to his excellent performance in his judicial duties. Mr. Stretton, in the past, has appeared before Judge Maruszczak and finds him to be a very knowledgeable and energetic District Judge. He is extremely fair to all participants. There has not been any complaint about his conduct in the Courtroom or his handling of cases. Judge Maruszczak has also been involved in numerous pro bono community and civil activities over the years.

Although unacceptable conduct, from a purely human standpoint, Judge Maruszczak's anger and frustration expressed toward former friends can perhaps be understood. He felt betrayed by them. He particularly felt betrayed by Ms. Rogovin because he had a long personal relationship with her husband, who had been a law professor of his when Judge Maruszczak attended and graduated from Temple Law School. Judge Maruszczak had been to the Rogovin's house almost on a monthly basis for a

number of years. As to Mr. DeFelice, Judge Maruszczak had known him for twenty years and considered him a friend. Judge Maruszczak and Ms. Kennedy had worked on township projects together. Judge Maruszczak was upset that Ms. Kennedy was campaigning right in front of his house on behalf of his opponent.

Judge Maruszczak accepts full and complete responsibility for allowing his anger to be directed at his former friends in a public place, i.e., the polling places, or when they were canvassing. He fully acknowledges how that could hurt his judicial office, and accepts responsibility for his misconduct.

Judge Maruszczak has no prior professional discipline. He has an otherwise excellent judicial career.

Judge Maruszczak is asking that the appropriate discipline be that of a private reprimand. It should be noted in a recent case where a District Judge retaliated against his staff when he found out that they had filed a written complaint against him with the Judicial Conduct Board, and yelled at his staff, the Judicial Conduct Board imposed a private reprimand [see case of In re Tidd, 181 A.3d 14 (Ct. of Jud. Disc., 2018)]. The Court of Judicial Discipline then discussed the ten factors for considering discipline, which has been recently adopted by the Pennsylvania Supreme Court in the case of In re Roca, 173 A.3d 1176 (Pa., 2017). These factors are as follows:

(1.) Whether the misconduct is an isolated instance or evidences a pattern of conduct. In the present case involving Judge Maruszczak, there were three instances. They were all around the Primary or General Election and all involved persons he had considered friends.

(2.) Nature, extend and frequency of occurrence of the acts of misconduct. There were three acts of misconduct that were noted. There was no prior history of misconduct.

(3.) Whether the conduct occurred in or out of the Courtroom. In this case, Judge Maruszczak's conduct had nothing to do with his performance in the Courtroom or Courthouse. This involved three former friends, out in public, working against him either on or before his election.

(4.) Whether the misconduct occurred in the judge's official capacity or in his private life. In this case, Judge Maruszczak's conduct was in his private life. It had nothing to do with his official capacity. He was out on Election Day and confronted friends in an improper fashion.

(5.) Whether the judge has acknowledged or recognized that the acts occurred. Judge Maruszczak has accepted responsibility for the acts, as seen by the stipulation he entered into with the Court of Judicial Discipline. At the

hearing, Judge Maruszczak will offer an apology for his actions.

(6.) Whether the judge has evidenced an effort to change or modify his or her conduct. In the present case, there is no evidence that after the election, this conduct continued. There were no other instances of misconduct. The judge recognizes he was wrong and will not repeat the conduct.

(7.) The length of service on the bench. Judge Maruszczak has served since 1997 and he is now in his 22<sup>nd</sup> year. Except for these present matters, during the rest of his judicial tenure, there has been no misconduct.

(8.) Whether there have been prior complaints against the judge. To Judge Maruszczak's knowledge, other than the complaints surrounding this matter, there have been no other complaints of any substance against him, and he has never had a finding of violation.

(9.) The effect the misconduct has upon the integrity and respect for the judiciary. Any misconduct in public can lessen the respect for the judiciary. This Honorable Court has already found that Judge Maruszczak's conduct did not rise to the level of bringing disrepute. Judge Maruszczak will present character witnesses at the time of the hearing. Three isolated acts of misconduct would seem to

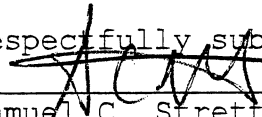
suggest there would be no serious negative effect. The matters occurred in 2015 and it is now 2019, without any further instances.

(10.) The extent to which the judge exploited their position to satisfy his or her personal desires. It appears there is no evidence that Judge Maruszczak tried to improperly exploit his judicial position. This is a situation where he felt betrayed by friends and improperly expressed that displeasure in public and he should have known better. Judge Maruszczak has accepted full responsibility.

A review of the ten prongs for consideration of discipline, strongly suggests that private discipline or, at most, a public censure, would be appropriate.

In conclusion, Judge Maruszczak respectfully contends following the ten-prong standard and reviewing his otherwise excellent conduct and many years on the bench, the appropriate discipline would be a private reprimand or, at most, a public censure.

Respectfully submitted,

  
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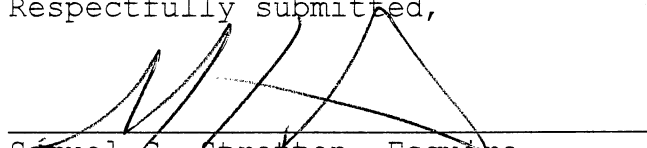
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CERTIFICATE OF COMPLIANCE

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,

4/11/19  
Date

  
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CERTIFICATE OF SERVICE

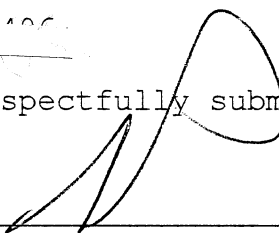
I hereby certify I am this date serving a copy of the foregoing Brief on Nature of Discipline on behalf of William I. Maruszczak in the captioned matter upon the following persons in the manner indicated below.

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

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Respectfully submitted,

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