

**COMMONWEALTH OF PENNSYLVANIA
COURT OF JUDICIAL DISCIPLINE**

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OF PENNSYLVANIA

JUN 10 2024

RECEIVED AND FILED

IN RE:

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

**JUDICIAL CONDUCT BOARD BRIEF IN REPLY TO RESPONDENT'S MOTION
FOR A DERIVATIVE PROGRAM FOR PSYCHIATRIC TREATMENT**

AND NOW, this 5th day of June, 2024, comes the Judicial Conduct Board of the Commonwealth of Pennsylvania (Board) by and through undersigned counsel, and files this Reply Brief to Respondent's Motion to Place Respondent into a Derivative Program for Psychiatric Treatment, as follows:

Respondent requests placement into a "derivative" program, likened to the Accelerated Rehabilitative Disposition Program, under Rule 422 of this Court's Rules of Procedure. Respondent cites Rule 422 as giving the authority to defer disposition of this case and place Respondent into said program, where upon successful completion the charges would be dismissed. Rule 422 provides:

Deferral of Disposition.

- (A) The Court may defer the litigation of a case where a direct criminal appeal is pending and the Judicial Officer still holds his or her judicial office, or for other good cause.
- (B) In cases where the Judicial Officer has resigned, retired, or no longer holds office, including cases where the judicial office has been forfeited as a result of a criminal conviction or a felony, deferral is unlikely to be granted absent other substantial factors

sufficient to overcome the presumption that a prompt disposition of the case is in the best interests of the judicial system.

The comments to that rule point to the Court's recognition that, in cases involving criminal charges, the desire for a prompt disposition must be balanced with the subject judge's Constitutional rights with respect to the criminal legal system.

In the present instance, subsection (A) would not apply to Respondent's request, as Judge Saveikis resigned his position effective January 26, 2024, and there have been no criminal charges filed regarding these incidents. Subsection (B) likewise does not conform to Respondent's request, as this merely provides for the deferral of disciplinary proceedings rather than dismissal, as requested. Counsel therefore believes that Respondent's request most closely conforms to a request for participation in the Judicial Diversion Program, of which certain jurists have availed themselves in the past, or a request for deferral under Rule of Procedure 601.

On September 16, 2015, in the matter of *In re Domitrovich*, 1 JD 2014, the Court adopted the Judicial Diversion Program/Interim Policy Statement, attached hereto as Exhibit A. This policy statement notes that the Court developed the Judicial Diversion Plan with an eye toward rehabilitation, recognizing that there were generally three classes of jurist who would qualify for the program: those charged with misconduct that is *not* likely to result in suspension or removal, those judicial officers whose behavior is a result of disability, and judicial officers who suffer from substance misuse disorder. This policy statement specifically and categorically states that the diversion program is *not* for those judicial officers with criminal charges or those accused of corruption.

The clear expectation inherent in the foregoing is that diversion will be applied to judges who remain on the bench. There is simply no interest in reforming the behavior of a jurist who has already left the bench and has no plans to seek future judicial office; this would be a waste of valuable court time and resources that would not serve to benefit the judiciary. As such, the Board does not believe that the present case is appropriate for placement in the Judicial Diversion Program.

If, in fact, Respondent is seeking the appointment of a mental health professional to evaluate Respondent for purposes of establishing Respondent's competency under Rule 601, the Board leaves this as a matter for the court but does not object to the requested relief.

Respectfully submitted,
MELISSA L. NORTON
Chief Counsel

By:


Elizabeth A. Hoffheins
Deputy Counsel
Attorney ID No. 209623
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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 Reply to New Matter 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: June 5, 2024

By:


Elizabeth A. Hoffheins
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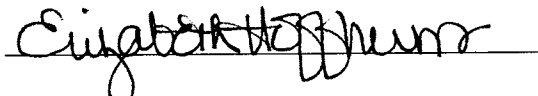
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CERTIFICATE OF COMPLIANCE

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 June 5, 2024, a copy of the *Judicial Conduct Board Brief in Reply to Respondent's Motion for a Derivative Program for Psychiatric Treatment* was sent by USPS First Class mail to Judge Saveikis's attorney(s), Robert Del Greco, David Shrager, and Samuel Stretton at the following addresses:

Robert Del Greco, Esquire
Dickie, McCamey & Chilcote, P.C.
PPG Place 2
Suite 400
Pittsburgh, PA 15222

David Shrager, Esquire
Shrager Defense Attorneys
437 Grant Street, 617
Frick Building
Pittsburgh, PA 15219

Samuel C. Stretton, Esquire
103 S. High St.
West Chester, PA 19382

Respectfully submitted,

DATE: June 5, 2024

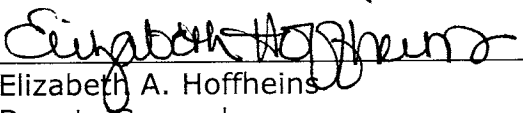

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EXHIBIT A

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**INTERIM POLICY STATEMENT
Judicial Diversion Program**

The Court of Judicial Discipline wishes to explore the possibility of implementation of a permanent Judicial Diversion Program as a disposition available to the Court upon the filing of a formal complaint or a petition for relief¹ by the Judicial Conduct Board.

The Court adopts this Interim Policy Statement for guidance and uniform practices pending the decision of the Court to adopt a permanent Judicial Diversion Program.

The Court hopes to develop this Judicial Diversion Program to rehabilitate, and not to punish, therefore the Program, Interim and permanent, is for judges who, while charged with ethical violations, typically fall into one of the following categories:

- a. Judicial officers charged with conduct that, if proven, would constitute a violation of the Constitution, the Code of Judicial Conduct, the Rules Governing Standards of Conduct of Magisterial District Judges, or Orders of the Supreme Court of Pennsylvania, but would not likely result in the imposition of serious discipline such as suspension or removal from office following adjudication;
- b. Judicial officers with a mental, physical or emotional disability. In addition to the authority vested in the Court under C.J.D.R.P. No. 601;
- c. Judicial officers with substance abuse issues;

¹ Pursuant to C.J.D.R.P. No. 701, the Judicial Conduct Board may file a Petition for Relief rather than file formal charges under Article V, §18(b)(5) of the Pennsylvania Constitution.

d. Judicial officers who have not previously had formal charges filed against them.

This Judicial Diversion Program is not an option in cases involving criminal charges or corruption.

1. The Pennsylvania Constitution provides authority to the Court of Judicial Discipline to implement a Judicial Diversion Plan:

Article V, § 18(b)(5)

Upon the filing of formal charges with the court by the board, the court shall promptly schedule a hearing or hearings to determine whether a *sanction* should be imposed against a justice, judge or justice of the peace pursuant to the provisions of this section. The court shall be a court of record, with all the attendant duties and powers appropriate to its function. Formal charges filed with the court shall be a matter of public record. All hearings conducted by the court shall be public proceedings conducted pursuant to the rules adopted by the court and in accordance with the principles of due process and the law of evidence. Parties appearing before the court shall have the right to subpoena witnesses and to compel the production of documents, books, accounts and other records as relevant. The subject of the charges shall be presumed innocent in any proceeding before the court, and the board shall have the burden of proving the charges by clear and convincing evidence. All decisions of the court shall be in writing and shall contain findings of fact and conclusions of law. A decision of the court may order removal from office, suspension, censure or other discipline as authorized by this section and as warranted by the record.

Article V, § 18(d)

A justice, judge or justice of the peace shall be subject to disciplinary action pursuant to this section as follows:

(1) A justice, judge or justice of the peace may be suspended, removed from office *or otherwise disciplined* for conviction of a felony; violation of section 17 of this article; misconduct in office; neglect or failure to perform the duties of office or conduct which prejudices the proper administration of justice 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 a canon or rule prescribed by the Supreme Court. In the case of a mentally or physically disabled justice, judge or justice of the peace, the court may enter an order of removal from office, retirement, suspension *or other limitations on the activities of the justice, judge or justice of the peace as warranted by the record*. Upon a final order of the court for suspension without pay or removal, prior to any appeal, the justice, judge or justice of the peace shall be suspended or removed from office; and the salary of the justice, judge or justice of the peace shall cease from the date of the order.

2. The Judicial Diversion Program is an alternative to formal disciplinary procedures and sanctions, and participation is a matter of privilege, not of right. The purpose of the Program is to improve the quality of the judiciary by providing mentoring, educational, remedial and rehabilitative programs for judicial officers. The Court of Judicial Discipline expressly reserves the right and obligation to ensure that only appropriate judicial officers are invited to participate in the Program and to ensure the compliance of judicial officers with the conditions of the Program.

3. Upon the filing of a formal complaint or petition for relief, but before adjudication, the Court of Judicial Discipline may invite a judicial officer to comply with a Judicial Diversion Program plan, including but not limited to education, counseling, drug and alcohol testing and follow-up treatment, docket management training, monitoring and/or mentoring programs, or other forms of remedial action, including any combination of dispositions that the Court of Judicial Discipline believes will reasonably improve the conduct the judicial officer. Such invitation may be accompanied by the deferral of final disciplinary proceedings.

If a judicial officer refuses to agree to the diversion plan formal proceedings will be followed.

If the counselor, mentor or other professional appointed to supervise the diversion program reports to the Court of Judicial Discipline, or if the Court of Judicial Discipline otherwise determines, that the judicial officer has been noncompliant with the terms, conditions and obligations of diversion formal proceedings will be re-instituted and the judicial officer will be removed from the diversion program.

4. The judicial officer will be required to sign a formal Judicial Diversion Program agreement or contract outlining the terms, conditions and obligations of the diversion plan.

5. Qualified counselors, mentors or other professionals will be appointed by the Court to supervise the Judicial Diversion Program plan, and

will be permitted to submit to the Court of Judicial Discipline reimbursement vouchers for expenses accrued during their service. The Court of Judicial Discipline shall determine what, if any, additional reasonable compensation shall be paid to any counselor, mentor, or other professional appointed by the Court.