

COMMONWEALTH OF PENNSYLVANIA  
COURT OF JUDICIAL DISCIPLINE

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PENNSYLVANIA

2015 DEC 10 P 4: 39

IN RE:

J. Michael Eakin  
Justice of the Supreme Court  
of Pennsylvania

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: No. 13 JD 15  
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**ORDER**

AND NOW, this 10<sup>th</sup> day of December, 2015, it is ORDERED AND DIRECTED as follows:

1. Following a review of the Complaint filed on December 8, 2015, by the Judicial Conduct Board against J. Michael Eakin, Respondent:

A Rule is hereby issued upon J. Michael Eakin, to show cause, why he should not be suspended as a Justice of the Supreme Court of Pennsylvania, pending further Order of this Court.

2. The Respondent, J. Michael Eakin, and the Judicial Conduct Board, are directed to appear for a hearing on this Rule on Monday, December 21, 2015, at 11:00 A.M., at the Northampton County Courthouse, Courtroom No. 10, Easton, PA.

3. The Board is Ordered and Directed to serve a Subpoena that will be issued forthwith by this Court, directed to KATHLEEN G. KANE, Attorney General of Pennsylvania, directing that she diligently conduct a search for all e-mails that may be found, whether on her office servers or otherwise, which touch, reflect or concern e-mails sent to or from any e-mail account associated with Justice Eakin, which utilize government equipment, for the period beginning on January 1, 2008, and continuing through the present time, in which the subject or substance of the communication was sexually explicit, misogynistic, ethnically insensitive, racist or homophobic material. The Subpoena shall further direct that the Office of Attorney

General shall produce to the Judicial Conduct Board all such e-mails, in electronic form, with all associated metadata, not later than January 10, 2016, along with an Affidavit averring that the e-mails so produced represent all of the e-mails in her possession, custody or control, whether on Office of Attorney General servers or otherwise.

### Statement of Reasons

- (1) The Pennsylvania Constitution, Article V, §18(d)(2), provides, in pertinent part:

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

. . . .

(2) Prior to a hearing, the court may issue an interim order directing the suspension, with or without pay, of any justice, judge or justice of the peace against whom formal charges have been filed with the court by the board or against whom has been filed an indictment or information charging a felony. An interim order under this paragraph shall not be considered a final order from which an appeal may be taken.

- (2) The rights set out in the Pennsylvania Constitution, Article V, §18(b)(5)<sup>1</sup> as available to judicial officers in proceedings leading to final orders of sanctions are not available in interim proceedings under Article V, §18(d)(2). ***In re: Orié Melvin***, 57 A.3d 226 (Pa.Ct.Jud.Disc. 2013). Relief entered pursuant to interim proceedings is entered without prejudice to the ultimate disposition of the case pursuant to Article V, §18(d)(1).

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<sup>1</sup> Section 18(b)(5) outlines the constitutional due process rights and procedural mandates when the Court of Judicial Discipline convenes for trials on adjudications of violations of the Pennsylvania Constitution or canons governing judicial officers.

(3) This hearing is necessary due to the allegations in the Complaint that Justice Eakin has used government equipment to exchange emails which include sexually explicit, misogynist, racist or homophobic passages. These emails are also said to include lewd references to judicial employees. According to the Complaint, although these emails were originally intended to be private conversations, they have now become public, potentially resulting in grave damage to the public's confidence in and integrity of the Pennsylvania judiciary. In the words of former Chief Justice Ralph Cappy, the constitutional mandate of the Pennsylvania Court of Judicial Discipline requires the Court to make this preliminary review:

The Court of Judicial Discipline exists not only to chasten the misbehaving judge; rather, it serves an equally—if not more—important function as protector of the integrity of the judiciary and the public's confidence in that branch of government. In disciplining a judicial officer for his misconduct, that tribunal not only punishes the wrongdoer, but also repairs the damaged public trust and provides guidance to other members of the judiciary regarding their conduct.

***In re Melograne***, 571 Pa. 490, 496-497, 812 A.2d 1164, 1168 (2002).

BY THE COURT,

Jack A. Panella  
Conference Judge