

COMMONWEALTH OF PENNSYLVANIA
COURT OF JUDICIAL DISCIPLINE

IN RE:

Angeles Roca
Judge of the Court of Common Pleas
First Judicial District
Philadelphia County

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DISCIPLINE
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No. 14 JD 2016

BEFORE: Honorable Jack A. Panella, P.J., Honorable John J. Soko, J., Honorable David J. Shrager, J., Honorable David J. Barton, J., Honorable Doris Carson Williams, J., Honorable Jeffrey P. Minehart, J.¹

OPINION BY PRESIDENT JUDGE JACK A. PANELLA

FILED OCTOBER 20, 2016

This action against the Honorable Angeles Roca is based upon allegations that Judge Roca contacted former Judge Joseph C. Waters, Jr., to help gain relief for her son, Ian C. Rexach, in an action filed against her son docketed at ***City of Philadelphia v. Rexach***, Case No. CE-12-03-73-0123, in the Municipal Court of Philadelphia. Unbeknownst to Judge Roca, her conversations with former Judge Waters were intercepted by the Federal Bureau of Investigation pursuant to a court authorized wiretap.

PROCEDURAL SUMMARY

The Respondent, Angeles Roca, is a judge on the Philadelphia Court of Common Pleas. The Judicial Conduct Board ("Board") initially filed a Complaint on December 18, 2015; however, an Amended Complaint was filed on June 30, 2016. The Respondent did not file an answer to either the

¹ Judge Minehart did not participate in this Decision.

Complaint or the Amended Complaint, and pursuant to C.J.D.R.P. No. 413 the allegations were deemed denied.²

The Board also filed a Petition for Interim Suspension on December 18, 2015. The Court of Judicial Discipline granted the petition by way of a *per curiam* order on January 13, 2016, and the Respondent was suspended without pay.

The Respondent filed an Omnibus Pretrial Motion on January 20, 2016. The motion was denied by the Court of Judicial Discipline on March 2, 2016.

The Amended Complaint contains six counts:

- (1) Count One alleges a violation of Canon 2B of the former Code of Judicial Conduct, which was effective for all relevant time-periods in this case. Because of this violation, the Board argues that Judge Roca is subject to discipline pursuant to Article V, § 18(d)(1) of the Constitution of the Commonwealth of Pennsylvania. The Board alleges that Judge Roca did lend the prestige of her office to advance the private interests of her son by engaging in *ex parte* communications with former Judge Waters, knowing that former Judge Waters would contact Judge Dawn A. Segal of the Philadelphia Municipal Court.

² In pertinent part, C.J.D.R.P. No. 413 states: "Failure to file an answer shall be deemed a denial of all factual allegations contained in the Board Complaint."

- (2) Count Two alleges a violation of Canon 3A(4) of the former Code of Judicial Conduct, which was effective for all relevant time-periods in this case. Because of this violation, the Board argues that Judge Roca is subject to discipline pursuant to Article V, § 18(d)(1) of the Constitution of the Commonwealth of Pennsylvania. The Board alleges that Judge Roca, on more than one occasion, and without authorization under the law, contacted former Judge Waters, and encouraged former Judge Waters to engage in *ex parte* communications with Judge Segal to request special consideration for her son.
- (3) Count Three alleges a violation of Article V, § 17(b) of the Constitution of the Commonwealth of Pennsylvania, and therefore, Judge Roca is subject to discipline pursuant to Article V, § 18(d)(1). The Board argues that the above-referenced violations of the former Code of Judicial Conduct result in automatic derivative violations of Article V, § 17(b) of the Constitution of the Commonwealth of Pennsylvania.
- (4) Count Four alleges a direct violation of Article V, § 18(d)(1) of the Constitution of the Commonwealth of Pennsylvania in that the actions of Judge Roca, in acquiescing to and encouraging former Judge Waters to have *ex parte* communications with

- Judge Segal about the ***Rexach*** case, constituted conduct which prejudices the proper administration of justice.
- (5) Count Five alleges a direct violation of Article V, § 18(d)(1) of the Constitution of the Commonwealth of Pennsylvania in that the actions of Judge Roca, in acquiescing to and encouraging former Judge Waters to have *ex parte* communications with Judge Segal about the ***Rexach*** case, constituted conduct which brings the judicial office into disrepute.
- (6) Count Six alleges a violation of Canon 2A of the former Code of Judicial Conduct, which was effective for all relevant time-periods in this case. Because of this violation, the Board argues that Judge Roca is subject to discipline pursuant to Article V, § 18(d)(1) of the Constitution of the Commonwealth of Pennsylvania. The Board alleges that Judge Roca, on more than one occasion, both acquiesced to and encouraged former Judge Waters to engage in *ex parte* communications with Judge Segal to request special consideration in the ***Rexach*** case for her son. Because *ex parte* communications about a pending case implicate the judicial decision-making process, this conduct gave the appearance of impropriety and undermined public confidence in the integrity and impartiality of the judiciary.

The Respondent filed a Pre-trial Memorandum on June 6, 2016. The Board filed a Second Amended Pre-trial Memorandum on June 30, 2016. At the pre-trial conference held on June 20, 2016, the Board was granted permission to file an amended complaint, which was done on June 30, 2016, and the Respondent was given an opportunity to file a formal answer; however, no answer was filed by the Respondent.

Trial, held pursuant to C.J.D.R.P. No. 502, commenced on September 8, 2016, in Philadelphia. The Board was represented by Elizabeth A. Flaherty, Esq., Deputy Counsel, and Robert A. Graci, Chief Counsel; the Respondent was represented by Samuel Stretton, Esq.

At the trial, the Board presented the testimony of FBI Special Agent Eric H. Ruona. The Board also moved into the record a booklet which contained thirty-one separate exhibits, all of which were identified at trial.³ Lastly, the Board moved into the record sixty-two stipulations of fact in accordance with C.J.D.R.P. No. 502(D)(2).

Judge Roca testified on her own behalf and called Ian C. Rexach, her son, and Attorney John W. Morris, her former lawyer, as factual witnesses. The Respondent also presented the testimony of seven character witnesses:

- 1) Nelson A. Diaz, Esq.;**
- 2) Mark Albert Momjian, Esq.;**
- 3) Maria D. Quinones-Sanchez;**
- 4) Walter Joseph McHugh, Esq.;**
- 5) Mary T. Vidas, Esq.;**

³ Although there was some initial concern over the admissibility of Board Exhibit No. 10, this exhibit was eventually admitted without objection.

- 6) Oscar Rosario Fuentes; and**
- 7) Michael Grasso, Esq.**

FINDINGS OF FACT

Based upon the evidence received at the trial held on September 8, 2016, which includes the testimony of the witnesses, exhibits, and stipulations, we make the following findings of fact:

1. Article V, § 18 of the Constitution of the Commonwealth of Pennsylvania grants to the Judicial Conduct Board the authority to determine whether there is probable cause to file formal charges against a judicial officer in this Court, and thereafter, to prosecute the case in support of such charges.
2. Since October 2008, Judge Roca has served continuously as Judge of the Court of Common Pleas of Philadelphia. Her appointed term began on October 25, 2008, followed by an elected term which started on January 4, 2010.
3. Based on a Confidential Request for Investigation at JCB File No. 2015172, the Board investigated the instant matter.
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 was probable cause to file formal charges against Judge Roca.

6. The misconduct alleged in this Complaint occurred prior to July 1, 2014. Therefore, the former Code of Judicial Conduct applies.⁴

7. Former Judge Waters served on the Municipal Court of Philadelphia from the time of his initial appointment on July 7, 2009, through his resignation on September 23, 2014.

8. Judge Roca's term as Judge of the Court of Common Pleas coincided with that of former Judge Waters.

9. Since January 2010, Judge Segal has served as Judge of the Municipal Court of Philadelphia.

10. Judge Roca's term as Judge of the Court of Common Pleas coincided with that of Judge Segal.

11. Pursuant to a criminal investigation and unknown to former Judge Waters, Judge Roca, and Judge Segal, the FBI conducted a wiretap of former Judge Waters' telephone communications and recorded his intercepted telephone conversations with Judge Roca on:

- September 21, 2011;
- September 22, 2011;
- December 23, 2011;
- June 26, 2012;
- June 29, 2012; and

⁴ The Pennsylvania Code of Judicial Conduct was substantially amended in 2014. The former Code was effective from January 1, 1974, to July 1, 2014, and was based on the 1970 ABA Model Code of Judicial Conduct.

- July 1, 2012.

The FBI also intercepted telephone conversations between former Judge Waters and Judge Segal on:

- June 29, 2012; and
- July 1, 2012.

12. Incident to its investigation of this matter and upon request, on July 20, 2015, Board counsel received a copy of the recordings of some of the intercepted telephone conversations between Judge Roca and former Judge Waters from Assistant United States Attorney ("AUSA") Richard A. Barrett. Judge Roca stated in her June 18, 2015 letter to Board counsel that she instructed her then-attorney, John Morris, Esq., to advise Board counsel and Attorney Barrett that she gave her "consent to providing the Board with copies of these recordings." Other recordings of intercepted telephone conversations were sent to Board counsel as attachments to emails by FBI Special Agent Eric H. Ruona on January 26, 2016, and February 3, 2016.

See Board's Exhibits 12 and 31.

12. Incident to its investigation in another matter, *In re Segal*, 3 JD 2015, on January 26, 2016, Board counsel received a copy of the recording of related intercepted telephone conversations between Judge Segal and former Judge Waters.

13. Judge Roca's son, Ian C. Rexach, owns a barbershop in Philadelphia and was required by the codes or ordinances of the City of

Philadelphia to file tax returns and pay taxes due and owing pursuant to a Net Profits Tax and a Business Privilege Tax.

14. On March 27, 2012, the Philadelphia City Solicitor's Office filed a Code Enforcement Complaint in the Philadelphia Municipal Court against Ian C. Rexach for failure to file his 2008 Business Privilege Tax return that was due on April 15, 2009. **See *City of Philadelphia v. Rexach***, Case No. CE-12-03-73-0123.

15. On May 15, 2012, without a hearing in the **Rexach** case and in accord with standard Municipal Court ministerial actions, the signature of Municipal Court President Judge Marsha H. Neifield was affixed to the Order for a default judgment against Rexach because he failed to appear at the hearing in his case.

16. Thereafter, Rexach filed a *pro se* Petition to Open Judgment.

17. On June 12, 2012, Judge Segal denied Rexach's Petition to Open Judgment for failure to set forth a meritorious defense.

18. On June 26, 2012, Judge Roca called former Judge Waters to ask him how her son, Ian C. Rexach, should proceed to obtain relief in the tax matter. This intercepted phone call was made part of the record as Board Exhibit Nos. 13 and 19, and was the subject of questions directed to Special Agent Ruona (Trial Transcript, 9/18/16, at p. 57) and Judge Roca (Trial Transcript, 9/18/16, at pp. 176-178, 206-208, and 215-216).

19. Judge Roca's June 26, 2012 intercepted telephone conversation with former Judge Waters, in pertinent part, consisted of the following:

Judge Roca: I have a question . . . Can he file a Motion for Reconsideration with her [Judge Segal]?

Former Judge Waters: Yeah, you file a Motion for Reconsideration with her and I'll talk to her.

Judge Roca: Huh?

Former Judge Waters: I said, file a Motion for Reconsideration with her and I'll talk to her.

Judge Roca: Okay.

Former Judge Waters: Why didn't you call me first?

Judge Roca: Because I didn't know it was late, so I just sent him over and I said, "just go open it." I didn't know it was beyond the 30 day period, otherwise, I would have called.

Former Judge Waters: Yeah.

Judge Roca: We just . . . it was on May 15th and he wrote in the Petition, "I apologize I got this mixed up with another court date in Municipal Court." And then he wrote, "I wish to reopen my case so that I can resolve this matter and make payments." The bitch denied it, that's a pretty good . . . [laughs] . . . I mean it's not a legal defense, but give me a break.

20. From that conversation, Judge Roca understood that as a result of her telephone call to former Judge Waters, he planned to talk to Judge Segal about the Petition for Reconsideration in the **Rexach** case.

21. Judge Roca told former Judge Waters that the reason she did not call him earlier for his help was that she "didn't know it was beyond the [thirty-]day period."

22. During her June 26, 2012 telephone conversation with former Judge Waters, Judge Roca did not attempt to dissuade him from contacting Judge Segal about the **Rexach** matter.

23. During her June 26, 2012 telephone conversation with former Judge Waters, Judge Roca referred to Judge Segal as "the bitch [who] denied it," "it" meaning the Petition to Open Judgment.

24. Subsequent to the June 26, 2012, telephone conversation with former Judge Waters, Judge Roca learned that Judge Segal would not be presiding over such petitions and motions after June 29, 2012.

25. Judge Roca wanted to ensure that Judge Segal was the judge who decided the **Rexach** Petition for Reconsideration.

26. On June 29, 2012, Judge Roca called former Judge Waters again and informed him that her son, Ian C. Rexach, filed the Petition for Reconsideration. This intercepted phone call was made part of the record as Board Exhibit Nos. 13 and 20, and was the subject of questions directed to Special Agent Ruona (Trial Transcript, 9/18/16, at p. 57) and Judge Roca (Trial Transcript, 9/18/16, at pp. 179-180, 208-210, and 215-216).

27. During the June 29, 2012, intercepted telephone conversation, Judge Roca encouraged former Judge Waters to intervene:

Former Judge Waters: Hey honey. What's up Babe?

Judge Roca: Do you have Dawn's number?

Former Judge Waters: Who?

Judge Roca: Dawn Segal.

Former Judge Waters: Uh . . .

Judge Roca: He [Ian C. Rexach] just filed his Reconsideration, but they said she [Judge Segal] does 'em right today, so we need to call her today.

Former Judge Waters: Oh, okay. I'll call Dawn right now. But she's gone by now . . .

Judge Roca: It's Ian Rexach. She said call Monday but by Monday, she [Judge Segal] would have already decided the decision.

Former Judge Waters: All right. What's his name?

Judge Roca: It's Ian Rexach. R-E-X-A-C-H.

Former Judge Waters: R-E-X-A-C-H. I'll call her right now.

Judge Roca: And it's a Motion for Reconsideration, alright?

Former Judge Waters: All right. Bye-bye.

Judge Roca: Thank you, baby. Bye.

28. During her June 29, 2012, telephone conversation with former Judge Waters, Judge Roca understood that he planned to call Judge Segal on behalf of her son, Ian C. Rexach, regarding his Petition for Reconsideration.

29. During her June 29, 2012, telephone conversation with former Judge Waters, Judge Roca encouraged him to intervene in the **Rexach** matter by calling Judge Segal and thanked him in advance for his help.

30. On June 29, 2012, Judge Segal reviewed the Petition for Reconsideration and granted a Rule to Show Cause why the relief requested should not be granted.

31. Judge Segal did not preside over the **Rexach** case after June 29, 2012.

32. On June 29, 2012, Judge Segal called former Judge Waters and left an intercepted voice mail as follows:

Former Judge Waters: . . . and I will return your call as quickly as possible. Thank you and have a good day. [voicemail commands]

Judge Segal: Hi Joe, it's Dawn Segal returning your call. Um, give me a call when you have a chance. Hopefully I'll get you, I had to go to . . . oh, this might be you, let me, let me see . . . [55 seconds of voicemail commands].

33. On July 1, 2012, Judge Segal called former Judge Waters to advise him that she "took care of it."

34. During the July 1, 2012, intercepted telephone conversation with former Judge Waters, Judge Segal asked him to convey a message to "her" as follows:

Former Judge Waters: [23 seconds of phone ringing] Hey, what's up?

Judge Segal: Hi, I figured it out and I took care of it.

Former Judge Waters: Oh, okay. Thank you.

Judge Segal: I got it. Alright. It was on my um, que, so I did it. So, tell her it's done.

Former Judge Waters: Thank you very much, honey.

Judge Segal: Alright, you take care.

35. On July 1, 2012, former Judge Waters called Judge Roca and left an intercepted voice mail on her phone in which he stated in part:

Former Judge Waters: Angie, it's Joe. Dawn Segal just called me. She just said she took care of that thing. All right. Bye.

36. Later that same day, former Judge Waters again called Judge Roca, and their intercepted telephone conversation included the following:

Judge Roca: Hello.

Former Judge Waters: Angie, it's Joe. How you doing?

Judge Roca: Good. What's up?

Former Judge Waters: Not much. That thing's taken care of.

Judge Roca: Thank you, Honey. Thanks so much.

Former Judge Waters: Dawn, she called me this morning. She said she did it over the weekend, so it's taken care of.

Judge Roca: All right. Cool. Thanks, Baby.

Former Judge Waters: Just check on it tomorrow and make sure it's [unintelligible words].

Judge Roca: I will. I will definitely check on Monday. Okay.

Former Judge Waters: All right, Sweetie. Talk to you.

Judge Roca: Bye-bye, honey. Bye-bye.

37. In his July 1, 2012, intercepted voice mail and telephone conversation with Judge Roca, former Judge Waters informed her that Judge Segal called him and said that she took care of "that thing," meaning the Petition for Reconsideration in the **Rexach** case.

38. During her July 1, 2012, intercepted telephone conversation with former Judge Waters, Judge Roca thanked him for contacting Judge Segal on her behalf regarding the **Rexach** matter.

39. Following several continuances, on March 13, 2013, without a hearing in the **Rexach** case and in accord with standard Municipal Court ministerial actions, the signature of Municipal Court President Judge Marsha H. Neifield was affixed to orders entered at the request of Rexach and the City's counsel, ordering the default judgment against Rexach be opened and vacated and that the case against him be withdrawn without prejudice.

40. On June 3, 2013, FBI Special Agent Eric H. Ruona and Special Agent Leah Chambers interviewed Judge Roca in the presence of her attorney.

41. During the FBI interview, wherein Judge Roca and her then counsel, John Morris, Esq., believed that the questions posed were to be confined to Family Court matters, Judge Roca denied that judges call one another and ask for favors. She stated, "We don't do that here at all."

42. During the same interview, Judge Roca also said that she would not call another judge to request a favor for a member of her family.

43. Judge Roca told the FBI agent that she knew a few other judges but would not call to ask any of them for a favor.

44. On March 24, 2015, Board counsel sent an informal letter of inquiry to Judge Roca.

45. On April 13, 2015, the Board received a response letter from Judge Roca and a separate response letter from her attorney.

46. On May 13, 2015, Board counsel sent a supplementary letter of inquiry to Judge Roca.

47. On May 28, 2015, Board counsel received Judge Roca's response to the supplementary letter of inquiry, dated May 21, 2015.

48. At the time of Judge Roca's April 13, 2015 and May 21, 2015 responses to the letter of inquiry and supplementary letter of inquiry respectively, Judge Roca was not aware of the wiretap recordings of her telephone conversations with former Judge Waters on June 26, 2012, June 29, 2012, and July 1, 2012.

49. In those responses, Judge Roca admitted to only one conversation with former Judge Waters and stated that it was limited to procedural advice about a petition for reconsideration in the **Rexach** matter.

50. In Judge Roca's April 13, 2015, response she stated that after former Judge Waters explained that her son, Ian C. Rexach, should file a petition for reconsideration, she advised Rexach on the proper procedure.

See Board's Exhibit 4.

51. In her April 13, 2015, response in the last two sentences of the second paragraph, Judge Roca stated, "I told my son to file such a motion and to make sure that he filled out the forms correctly. I had no further discussion with my son or anyone else concerning the case." Additionally, at

Paragraph No. 11, Judge Roca stated, "However, once I advised my son to file a motion for reconsideration, I had no further contemporaneous knowledge of the case." **See** Board's Exhibit 4.

52. At Paragraph No.7 of the April 13, 2015, response letter, Judge Roca stated, "I never requested preferential treatment and do not believe that any was given." **See** Board's Exhibit 4.

53. At Paragraph No. 8 of the same document, Judge Roca said, "Apparently, [former] Judge Waters contacted Judge Segal. This was without my knowledge and not at my request," and "I was unaware that [former] Judge Waters actually called Judge Segal." **See** Board's Exhibit 4.

54. At Paragraph No. 11 of her May 21, 2015, response letter to the Board's May 13, 2015, Supplementary Letter of Inquiry, Judge Roca stated that when she called former Judge Waters on behalf of her son, Ian C. Rexach, "All I wanted was procedural information." **See** Board's Exhibit 7.

55. Paragraph No. 12 of the Board's May 13, 2015, Supplementary Letter of Inquiry sets forth the following: "During your June 29, 2012 telephone conversation, did former Judge Waters offer to request special consideration from the presiding judge, Judge Dawn Segal, for your son, Ian C. Rexach, in his business tax case, ***City of Philadelphia v. Rexach?***" At Paragraph No. 12 of her May 21, 2015 response letter, Judge Roca replied, "No." **See** Board's Exhibit 7.

56. On June 9, 2015, Judge Roca and her attorney met with AUSA Richard Barrett and listened to the FBI intercepted telephone recordings of conversations between her and former Judge Waters for the time period between September 22, 2011, and July 1, 2012.

57. After her June 9, 2015, meeting with AUSA Barrett, Judge Roca submitted a second supplementary response letter to Board counsel, dated June 18, 2015.

58. In her second supplementary response letter, Judge Roca admitted that on June 26, 2012, former Judge Waters offered to speak with Judge Segal on her behalf and that she did not ask him not to do so.

59. In that same response letter, Judge Roca admitted that she placed a second phone call to former Judge Waters on June 29, 2012, and "asked him to request that Judge Segal consider the matter promptly."

60. Judge Roca also stated, "I should have stayed out of the matter completely."

61. In her June 18, 2015 supplementary response letter, Judge Roca admitted to the July 1, 2012 voice mail from and phone conversation with former Judge Waters who told her that the **Rexach** matter was "taken care of."

62. Despite her knowledge that former Judge Waters engaged in *ex parte* communication with Judge Segal, Judge Roca did not report his misconduct to the Judicial Conduct Board.

63. In her phone call to former Judge Waters on September 22, 2011, Judge Roca questioned former Judge Waters as to how another judge, i.e., former Judge Adam Beloff, now deceased, would have reacted if he were approached *ex parte* concerning a case that was pending before him. The case related to drug charges filed against the son of an employee in the Family Court. Although not repeated here verbatim, the intercepted phone call was made part of the record as Board Exhibit Nos. 13 and 17, and was the subject of questions directed to Special Agent Ruona (Trial Transcript, 9/18/16, at pp. 49-54) and Judge Roca (Trial Transcript, 9/18/16, at pp. 168-171, and 215-216).

**PERTINENT SECTIONS OF THE PENNSYLVANIA CONSTITUTION
AND
THE FORMER CODE OF JUDICIAL CONDUCT**

Pennsylvania Constitution, Article V, Section 17(b)

(b) Justices and judges shall not engage in any activity prohibited by law and shall not violate any canon of legal or judicial ethics prescribed by the Supreme Court.

Pennsylvania Constitution, Article V, Section 18(d)(1)

(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 . . . 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.

Canon 2A of the Former Code of Judicial Conduct

Judges should avoid impropriety and the appearance of impropriety in all their activities.

Judges should . . . conduct themselves at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

Canon 2B of the Former Code of Judicial Conduct

Judges should not allow their family, social, or other relationships to influence their judicial conduct or judgment. They should not lend the prestige of their office to advance the private interests of others; nor should they convey or knowingly permit others to convey the impression that they are in a special position to influence the judge.

Canon 3A(4) of the Former Code of Judicial Conduct

Judges . . . except as authorized by law, must not consider ex parte communications concerning a pending proceeding.

DISCUSSION

The Board has charged that the conduct of the Respondent subjects her to discipline under Article V, Section 18(d)(1) of the Pennsylvania Constitution because that conduct:

1. prejudices the proper administration of justice;
2. brings the judicial office into disrepute; and
3. constitutes a violation of Canons 2A, 2B, and 3A(4) of the former Code of Judicial Conduct.

As we have stated before, the Court of Judicial Discipline “has original jurisdiction over actions alleging judicial wrongdoing prosecuted by the Board.” *In re Bruno*, 101 A.3d 635, 662 (Pa. 2014); **see also** Pa. Const. Art. V, § 18(b)(5). “Judicial conduct proceedings are considered quasi-criminal in nature, and, therefore, the Respondent is afforded the same constitutional rights as are criminal defendants.” *In re Merlo*, 58 A.3d 1, 8 (Pa. 2012). The Board has the burden of proving the charges by clear and convincing evidence. *Id.*

As in all cases, this Court is required to make an independent evaluation of the evidence, whether stipulated to or determined after a hearing, in order to decide whether the allegations have been proven by clear and convincing evidence, and whether the conduct in issue violates the Pennsylvania Constitution or the Canons of the Code of Judicial Conduct.⁵ This review must be conducted on a case-by-case basis. *In re Berkhimer*, 930 A.2d 1255, 1258 (Pa. 2007).

“Family, friends and favoritism” is the Board’s summation of the unethical actions of Judge Roca in attempting to help her son with his 2008 business privilege tax case. “Family” in the context that her son, Ian C. Rexach, reached out to her in his attempts to resolve his tax issue:

⁵ As stated above, the Board has charged the respondent with violations of three Canons of the former Code of Judicial Conduct. These three Canons were effective for all relevant time periods in this case.

Judge Roca had a choice. She could have referred her son to court administration at the Municipal Court to pose questions as to how to proceed. But, instead, she decided to take matters into her own hands and to seek the advice of her friend, a judge at the Municipal Court.

(Trial Transcript, 9/18/16 at p. 21). "Friends" in the sense that she initially called upon her good friend, former Judge Waters, for procedural advice, but then later acquiesced with his offer to make *ex parte* communications with the judge who was handling her son's case. And lastly, "favoritism" in that special consideration was expected. According to the Board, this provision of "favoritism" upon *ex parte* requests, for the benefit of those who are politically connected or are family members or friends of judges or other court employees, has for too long haunted our state judiciary. **See** Trial Transcript, 9/18/16, at p. 23.

In relation to Judge Roca's contacts with former Judge Waters, Roca is charged with violating Article V, § 18(d)(1) of the Constitution of the Commonwealth of Pennsylvania, which prohibits conduct which brings the judicial office into disrepute and prejudices the proper administration of justice. We have previously examined these constitutional mandates in a number of cases.

In ***In re Cicchetti***, 697 A.2d 297, (Pa.Ct.Jud.Disc. 1997), we said:

The determination of whether 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. at 312. This case-by-case approach was cited with approval by our Pennsylvania Supreme Court in a number of decisions. **See e.g., In re Carney**, 79 A.3d 490, 501 (Pa. 2013); **In re Berkhimer**, 930 A.2d at 1258.

The **Berkhimer** Court also approved our stance on “disrepute” that it necessarily must incorporate some standard of the reasonable expectations of the public of a judicial officer’s conduct. **In re Berkhimer**, 930 A.2d at 1258. “[D]isrepute necessarily includes consideration of whether the public's perception of the judiciary as a whole has been affected by the alleged misconduct” **In re Carney**, 79 A.3d at 501.

In **In re Sullivan**, 135 A.3d 1164 (Pa.Ct.Jud.Disc. 2016), we addressed this constitutional provision in the context of evidence of *ex parte* communications between judges to influence pending cases:

Certainly the reasonable expectations of the public would include the expectation that a judicial officer will not make an overt, *ex parte* attempt to influence the outcome of a case on appeal from his or her court, to the detriment of the appellant.

Id. at 1173 (quoting **In re Trkula**, 699 A.2d 3 (Pa.Ct.Jud.Disc. 1997)).

Moreover, in a number of cases we have found that attempts to influence the outcome of a case constitute conduct that brings the judicial office into disrepute. **See e.g., In re Zupsic**, 893 A.2d 875 (Pa.Ct.Jud.Disc. 2005); **In re Kelly**, 757 A.2d 456 (Pa.Ct.Jud.Disc. 2000); **In re Joyce & Terrick**, 712 A.2d 834 (Pa.Ct.Jud.Disc. 1998); **In re Trkula**, 699 A.2d 3.

The reasonable expectations of the public certainly include the belief that a judicial officer will not make an overt, *ex parte* attempt to influence the outcome of any case to the detriment of any party, including a request made to benefit a family member. This conduct unavoidably brings the judicial office itself into disrepute, not just the reputation of the judicial officer under review. Consequently, we conclude that the conduct of Judge Roca, by way of her knowingly accepting the offer of former Judge Waters to make *ex parte* contacts with Judge Segal on behalf of Respondent's son, was such as to bring the judicial office into disrepute. The record is replete with references to the intercepted phone calls between former Judge Waters and Respondent. These were clear, overt, and *ex parte* steps taken to influence the case in favor of Ian C. Rexach. As stated in ***Carney***, disrepute "may result where the actions took place inside or outside of court proceedings." 79 A.3d at 501 (citing ***Berkhimer***, 930 A.2d at 1258).

The evidence regarding Roca's contacts with former Judge Waters also supports another violation of Article V, § 18(d)(1) of the Constitution of the Commonwealth of Pennsylvania, *i.e.*, the provision which prohibits conduct which prejudices the proper administration of justice. The term "administration of justice" has been used in cases arising in the context of contacts made by judicial officers to interfere with the operation of the courts. ***See e.g., In re Zupsic***, 893 A.2d 875 (Pa.Ct.Jud.Disc. 2005); ***In re Trkula***, 699 A.2d 3.

It is not open to question that when Respondent and former Judge Waters exchanged phone calls as late as on June 29, 2012, and July 1, 2012, which was to confirm that Judge Segal had taken care of the motion filed in Rexach’s case, she acted with the knowledge and intent that she was affecting a specific outcome. ***See Trkula***, 699 A.2d at 8. In having former Judge Waters speak directly with Judge Segal, Judge Roca had no other purpose than to “[effect] a specific outcome” and, in so doing, she “acted with the knowledge and intent that the conduct would have a deleterious effect upon the administration of justice.” ***Id.***

Respondent’s conduct also violated former Canon 2B of the former Code of Judicial Conduct—by Judge Roca’s lending the prestige of her office to advance the private interests of a family member. By approving of the *ex parte* contact between former Judge Waters and Judge Segal, Respondent’s conduct constituted a violation of former Canon 2B.

For similar reasons, Respondent’s conduct also violated former Canon 2A of the Code of Judicial Conduct—the failure to conduct herself in a manner that promotes confidence in the integrity and impartiality of the judiciary. Former Canon 2 required a judge to act “at all times” and in all activities in a manner which promotes public confidence in the integrity and impartiality of the judiciary. ***In re Carney***, 79 A.3d at 506. Our Supreme Court has explained that “[a] judicial office represents a public trust,” and that misconduct by a judicial officer “in his or her private life” may stain the

integrity of the judicial position and suppress the public's trust of the independence and integrity of the judiciary. *In re Bruno*, 101 A.3d at 684.

Because it violated those two former Canons, the same conduct also constitutes an automatic, derivative violation of Article V, § 17(b) of the Pennsylvania Constitution which provides in part that: "Justices and judges shall not engage in any activity prohibited by law and shall not violate any canon of legal or judicial ethics prescribed by the Supreme Court."

Having found that Respondent is subject to discipline for conduct which violates former Canons 2A and 2B, as well as violations of Article V, §§ 17(b) and 18(d)(1) of the Pennsylvania Constitution, it is not necessary to address the remaining count which charges that the same conduct constitutes a violation of former Canon 3A(4). As we stated in *In re Eagen*, 814 A.2d 304, 306–07 (Pa.Ct.Jud.Disc. 2002):

Unlike a criminal case in which the range of penalties is determined by the number of charges and the statutory sentence mandated for each offense upon which there is a finding of guilt, the scope of sanctions available to this Court is not so circumscribed. Any finding by this Court, that a judicial officer has violated the Constitution of Pennsylvania or the Code of Judicial Conduct subjects that judge to the full range of appropriate discipline. Furthermore, in exercising our discretion in imposing disciplinary sanction, we are guided not by the number of ways the Respondent's conduct has offended the Constitution or Code, but by the nature of the conduct itself and any mitigating or aggravating circumstances.

See also *In re Murphy*, 10 A.3d 932, 937 (Pa.Ct.Jud.Disc. 2010).

CONCLUSIONS OF LAW

Respondent's conduct, as set out above, constitutes:

- A. a violation of former Canon 2A of the Code of Judicial Conduct;
- B. a violation of former Canon 2B of the Code of Judicial Conduct;
- C. a violation of Article V, § 18(d)(1) of the Constitution of the Commonwealth of Pennsylvania, conduct such that brings the judicial office into disrepute;
- D. a violation of Article V, § 18(d)(1) of the Constitution of the Commonwealth of Pennsylvania, conduct such that prejudices the proper administration of justice; and
- E. an automatic, derivative violation of Article V, § 17(b) of the Constitution of the Commonwealth of Pennsylvania, inasmuch as it has been found that Respondent's conduct constitutes a violation of former Canons 2A and 2B of the Code of Judicial Conduct.

COMMONWEALTH OF PENNSYLVANIA
COURT OF JUDICIAL DISCIPLINE

IN RE: :
Angeles Roca :
Judge of the Court of Common Pleas : No. 14 JD 2015
First Judicial District :
Philadelphia County :

BEFORE: Honorable Jack A. Panella, P.J., Honorable John J. Soroko, J.,
Honorable David J. Shrager, J., Honorable David J. Barton, J., Honorable
Doris Carson Williams, J., Honorable Jeffrey P. Minehart, J.

ORDER OF COURT

AND NOW, this 20th day of October, 2016, based upon the
Conclusions of Law set forth above, it is hereby ORDERED:

1. Pursuant to C.J.D.R.P. No. 503, the attached Opinion with
Findings of Fact and Conclusions of Law be and it is hereby filed, and shall
be served on the Judicial Conduct Board and upon the Respondent;

2. Either party may file written objections to the Court's
Conclusions of Law within ten (10) days of this Order. Said objections shall
include the basis therefor and shall be served on the opposing party;

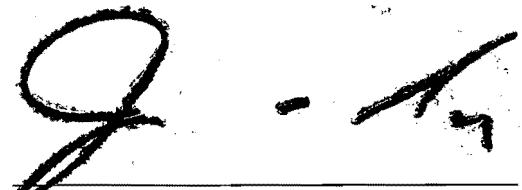
3. In the event that such objections are filed, the Court shall
determine whether to entertain oral argument upon the objections, and
issue an Order setting a date for such oral argument;

4. In the event objections are not filed within the time set forth
above, the Findings of Fact and Conclusions of Law shall become final, and

this Court will conduct a hearing on the issue of sanctions on November 21, 2016, at 10:00 a.m., in Commonwealth Court Courtroom 5001, Fifth Floor, Pennsylvania Judicial Center, 601 Commonwealth Avenue, Harrisburg, Pennsylvania; and

5. The Judicial Conduct Board and the Respondent shall each file on or before ten (10) days before the sanction hearing a list of such witnesses as either party may intend to present for testimony at that hearing, and shall serve a copy of said list upon the other party.

BY THE COURT



Jack A. Panella
President Judge