

COMMONWEALTH OF PENNSYLVANIA
COURT OF JUDICIAL DISCIPLINE

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JUDICIAL DISCIPLINE
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2016 OCT 27 A 11: 25

IN RE:

Joseph J. O'Neill
Municipal Court Judge
First Judicial District
Philadelphia County

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: No. 4 JD 16
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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.¹

Opinion by President Judge Jack A. Panella

Filed October 27, 2016

INTRODUCTION

The Judicial Conduct Board filed a Complaint with this Court on March 11, 2016, against former Municipal Court Judge Joseph J. O'Neill (Respondent) charging him with violations of the following:

- 1) Canon 2B of the Old Judicial Code²:

Judges should not . . . convey or knowingly permit others to convey the impression that they are in a special position to influence the judge.

- 2) Canon 3A(4) of the Old Judicial Code:

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

- 3) Canon 3B(3) of the Old Judicial Code:

Judges should take or initiate appropriate disciplinary measures against a judge or lawyer for unprofessional conduct of which the judge may become aware.

¹ Judge Minehart did not participate in this Decision.

² 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. The "Old Judicial Code" is applicable to Respondent's violations because they were committed before the effective date of the current Code.

- 4) Canon 3C(1) of the Old Judicial Code:
Judges should disqualify themselves in a proceeding in which their impartiality might reasonably be questioned
. . . .
- 5) Article V, §17(b) of the Constitution of Pennsylvania:
Justices and judges shall not . . . violate any canon of legal or judicial ethics prescribed by the Supreme Court.
- 6) Article V, §18(d)(1) of the Constitution of Pennsylvania:
A justice, judge or justice of the peace may be suspended, removed from office or otherwise disciplined for . . . conduct which prejudices the proper administration of justice. . . .
- 7) Article V, §18(d)(1) of the Constitution of Pennsylvania:
A justice, judge or justice of the peace may be suspended, removed from office or otherwise disciplined for . . . conduct which . . . brings the judicial office into disrepute. . . .

Subsequently on September 30, 2016, after Respondent's guilty plea and sentencing for violations of 18 U.S.C. §1001, the Judicial Conduct Board filed a second Complaint alleging additional counts of judicial misconduct as follows:

- 1) Article V, §18(d)(1) of the Constitution of Pennsylvania:
A justice, judge or justice of the peace may be suspended, removed from office or otherwise disciplined for conviction of felony. . . .
- 2) Article V, §17(b) of the Constitution of Pennsylvania:
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.
- 3) A third count repeating the charge of violating the Disrepute Clause of Article V, §18(d)(1) of the Constitution of Pennsylvania was also filed.

The two Complaints were consolidated by Order of Court on October 4, 2016.

FINDINGS OF FACT

1. The Judicial Conduct Board is empowered by Article V, §18 of the Constitution of Pennsylvania to file charges alleging ethical misconduct on the part of judges, justices or magisterial district judges and to present the case in support of the formal charges before this Court.

2. Respondent commenced his service as a Judge of the Municipal Court of Philadelphia on November 15, 2007. He resigned from judicial service effective May 26, 2016.

3. On March 2, 2016, Respondent was indicted in federal court in the Eastern District of Pennsylvania in the case of ***U.S. v. O'Neill***, 2:16-CR-00070. These criminal charges arose from false statements Respondent made to federal agents in September of 2012, to the effect that he had not been contacted by anyone concerning a case (***Houdini v. Donegal***) he was to hear. Respondent repeated this denial at a second interview with federal agents. In fact, Respondent, in the course of his guilty plea, admitted he had been contacted by now former Judge Joseph Waters who was seeking a favorable outcome for one of the parties.

4. On May 26, 2016, Respondent appeared before U.S. District Court Judge Juan R. Sanchez in the Eastern District of Pennsylvania and entered a guilty plea to two counts of making false statements to a federal agent in violation of 18 U.S.C. §1001, a felony.

5. On May 31, 2016, Respondent resigned from his position as a Municipal Court Judge, effective May 26, 2016.

6. On September 7, 2016, Respondent was sentenced to four years of probation for each of the two counts of making a false statement to a federal agent, to run concurrently, with the first six months to be served on unmonitored house arrest; 200 hours of community service and a \$5,000 fine.

DISCUSSION

As set forth in the Findings of Fact, Respondent was convicted of two felonies for making false statements to federal agents concerning whether he had been contacted by former Municipal Court Judge Joseph Waters concerning the ***Houdini v. Donegal*** case. In two separate interviews with the FBI, Respondent denied such a contact occurred.

Although Respondent's actions justify discipline on many grounds his felony convictions alone provide ample grounds for sanction. As stated previously in this Opinion, the Constitution of Pennsylvania at Article V, §18(d)(1) provides that a judge may be removed from office for conviction of a felony.

Any violation of the Constitution or the Code of Judicial Conduct is sufficient to subject the violative jurist to the full range of discipline including removal from office and being barred from future judicial office. ***In re Eagan***, 814 A.2d 304 (Pa.Ct.Jud.Disc. 2002). Respondent's actions and felony convictions are obviously extremely serious.

Respondent, through his counsel, has informed this Court that he does not dispute that removal from office is an appropriate sanction in this case.

CONCLUSIONS OF LAW

1. Respondent has been convicted of two federal felonies.
2. The criminal convictions described herein subject Respondent to discipline under Article V, §18(d)(1) of the Constitution of Pennsylvania.

