

COMMONWEALTH OF PENNSYLVANIA
COURT OF JUDICIAL DISCIPLINE

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IN RE: : NO. 7 JD 2015
: :
THOMASINE TYNES : :
FORMER JUDGE : :
PHILADELPHIA TRAFFIC COURT : :
PHILADELPHIA COUNTY : :

PRE-TRIAL MEMORANDUM OF THE RESPONDENT, THOMASINE TYNES

The Respondent, former Judge Thomasine Tynes, by and through her counsel, Samuel C. Stretton, Esquire, files this Memorandum as to the nature of sanctions.

Mr. Stretton would point out that former Judge Tynes of the Philadelphia Traffic Court retired in 2012 from the Philadelphia Traffic Court for health reasons. More recently, she was released from federal prison after serving approximately two years. Mr. Stretton would also point out that Thomasine Tynes' federal perjury conviction is still pending on appeal before the United States Court of Appeals for the Third Circuit. He would also point out that Thomasine Tynes' conviction in the state court system is presently being challenged pursuant to a Post-Conviction Hearing Petition.

Thomasine Tynes currently is 73 years of age and will turn 74 years of age in about one month. She is retired from Court and will never hold a judicial position again. Thomasine Tynes has no family and lives by herself. Her only source of income is social security and her judicial pension. She has serious

medical issues, having suffered from breast cancer, heart issues and other serious medical issues. She has also been diagnosed with loss of memory issues.

Thomasine Tynes has cooperated with the Judicial Conduct Board in bringing these matters to a timely resolution after she was released from federal prison in Texas in the late summer of 2016.

Ms. Tynes would ask that, based on her cooperation, the fact she was retired in 2012 from her judicial order and is no longer holding a judicial position, and her poor health, that she receive a sanction less than removal as suggested in the cases listed below.

Examples

There are examples of this Honorable Court showing leniency and mercy to an elderly judges who are retired, who need their judicial pension and who have cooperated in these judicial proceedings. Examples of such cases are as follows:

a.) In re: Dwight Shaner, 142 A.2d 3d 1051 (Pa. Ct. Jud. Disc., 2016). In this case, Judge Shaner had dismissed a criminal complaint against the nephew of a former Fayette County Assistant District Attorney. Judge Shaner was charged with perjury and obstructing the administration of justice. He also was charged with hindering apprehension and prosecution. He pled guilty to

one count of hindering apprehension and received a sentence of 18 months probation.

Judge Shaner had told the trooper he dismissed the case because the defendant was the nephew of the Assistant District Attorney. Despite all of that, the Court of Judicial Discipline found that Judge Shaner accepted responsibility and had shown remorse. He was reprimanded and censured. At that point, he was no longer an active judge and had applied for senior status. But it was ordered he would not be eligible to accept any cases as a Senior Magisterial Judge. Therefore, although he was no longer allowed to serve on any court, his sanction was only a reprimand and censure.

b.) In re: Kenneth Miller, 8 J.D. 15 (September 23, 2016) - Judge Miller pled guilty to one count of mail fraud involving Philadelphia Traffic Court where he sat as a judge and apparently was involved in this special consideration. He later testified as a cooperating witness both for the Judicial Conduct Board and also for the federal prosecutors. Judge Miller had been a judge for 43 years. The Court of Judicial Discipline found Judge Miller's conduct was an isolated incident and the violation was not motivated by money or greed. The Court looked at his long judicial service and chose not to remove him. The

Court of Judicial Discipline imposed the sanction of a reprimand.

c.) In re: Wade Brown, 907 A.2d 694 (Pa. Ct. Jud. Disc., 2006) - This District Judge engaged in numerous acts of improper sexual comments to secretaries and to litigants. He also made very damning racial comments. This misconduct occurred over a ten or fifteen year period. Wade Brown had served as a District Judge for 30 years. He presented excellent character testimony. He retired before the sanction hearing. He only received a reprimand because of his retirement and long years of service despite his serious misconduct.

d.) In re: Kelly, 757 A.2d 456 (Pa. Ct. Jud. Disc., 2000), Judge Kelly, a District Judge, had shown favorable treatment for a friend of his in connection with a traffic case. He was found in disrepute among other violations. Judge Kelly had retired and was no longer serving as a judge at the time of the judicial trial. He had been a judge for approximately 18 years. The Court of Judicial Discipline reprimanded him and ordered he no longer be able to accept assignments as a Senior Judge. This is another example of serious misconduct involving an elderly judge who had served many years and was retired and who had cooperated, resulting in a lesser form of discipline.

e.) In re: Trkula, 698 A.2d 180 (Ct. Jud. Disc., 1997) - This case resulted in discipline similar to Kelly. Judge Trkula had called a judge handling the appeal of one of her cases and asked that judge to impose a more severe sentence. Judge Trkula also spoke to the F.B.I. and misled the F.B.I.

Thomasine Tynes had served as a Philadelphia Traffic Court Judge from January of 1990 until her retirement on July 3, 2012. She had also served as President Judge of Traffic Court from March of 2005 until her retirement on July 3, 2012.

As noted, Thomasine Tynes was convicted in federal court of two counts of perjury for false testimony before a federal grand jury. She had been acquitted of all charges of special consideration. Her perjury charges are pending on appeal.

Thomasine Tynes also pled guilty in the Common Pleas Court of Philadelphia County to an ungraded felony of accepting improper influence under 65 Pa.C.S.A. 1103(c) and was sentenced to 11½ to 23 months of incarceration. That case is presently being challenged pursuant to a P.C.R.A. Petition.

Despite the misconduct Judge Tynes has done everything she can to change and reform. She is elderly now.

It would appear that the above cases would allow for this Honorable Court to impose on Thomasine Tynes a sanction less than removal with the condition she can never serve as a judge

again. This Court has done that repeatedly, as noted by the above cited cases.

There is a ten part test in terms of evaluating the appropriate judicial discipline as set for the in In re: Toczydlowski, 853 A.2d 24 (Pa. Ct. Jud. Disc., 2004). The multi-prong test to consider is as follows: (1) Whether the misconduct is an isolated incident or evidence of a pattern; (2) Nature and frequency of the acts of misconduct; (3) Whether the misconduct occurred in the Courtroom; (4) Whether the misconduct occurred in the judge's official capacity or private life; (5) Whether the judge acknowledged or recognized the acts occurred; (6) Whether the judge evidenced any effort to change or modify her conduct; (7) The length of service on the bench; (8) Whether there has been prior complaints; (9) What affected the misconduct upon the integrity and respect of the judiciary; (10) The extent to which the judge exploited her position to satisfy her personal desires.

In weighing these ten prongs, and at the same time, reviewing the above cited decisions where mercy and leniency has been allowed for elderly judges in long terms of service, Thomasine Tynes respectfully requests this Honorable Court

consider a sanction less than removal with the condition she can never serve again in any form or any senior status.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify I am this date serving a copy of the foregoing Pre-Trial Memorandum in the captioned matter upon the following persons in the manner indicated below.

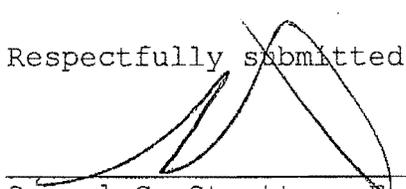
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Respectfully submitted,

12/13/16

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