

COMMONWEALTH OF PENNSYLVANIA
COURT OF JUDICIAL DISCIPLINE

IN RE: :
: :
Robert Mulgrew : No. 11 JD 15
Traffic Court Judge :
Philadelphia County :

BEFORE: Honorable Doris Carson Williams, P.J., Honorable Jeffrey P. Minehart, J., Honorable Michael J. Barrasse, J., Honorable Jazelle M. Jones, J., Honorable John H. Foradora, J., Honorable James C. Schwartzman, J.,¹ Honorable James J. Eisenhower, J., Honorable Andrea E. Puppio, J.

PER CURIAM

FILED: October 4, 2019

OPINION

Robert Mulgrew (Respondent Mulgrew) was a judge of the Philadelphia Traffic Court from 2008 - 2012. This case was submitted to the court on the written record as of April 15, 2019.

We make the following Findings of Fact based on the record.

Findings of Fact

1. Respondent Mulgrew served continuously as a duly elected judge on the Philadelphia Traffic Court (PTC), First Judicial District, Philadelphia County, Pennsylvania, from January 2008 until he was suspended in 2012.

2. As a PTC judge, Respondent Mulgrew was at all times subject to all the duties and responsibilities imposed on him by the Constitution of Pennsylvania and the Old Rules Governing Standards of Conduct of Magisterial District Judges, as applicable to PTC judges (effective prior to December 1, 2014).

¹ The Honorable James C. Schwartzman did not participate in this Decision.

3. Respondent Mulgrew was suspended from his judicial duties with pay by Order of the Court of Judicial Discipline dated September 14, 2012, and thereafter suspended without pay by Order of the Supreme Court dated September 19, 2012.

4. Respondent Mulgrew was the subject of a federal grand jury investigation regarding his alleged misappropriation of grant funds provided by the Pennsylvania Department of Economic Development and his violation of federal tax laws.

5. On August 28, 2012, Respondent Mulgrew was indicted by the federal grand jury at ***United States of America v. Robert Mulgrew***, Criminal No. 2:12-CR-00462-CJD-1, in the United States District Court for the Eastern District of Pennsylvania. By this Grand Jury Indictment, Respondent Mulgrew was charged with 30 felony counts of mail fraud, 18 U.S.C. §§ 1341, 1349; one felony count of Wire Fraud, 18 U.S.C. §§ 1343, 1349; one felony count of Tax Evasion, 26 U.S.C. § 7201; five felony counts of Filing False Federal Income Tax Returns, 26 U.S.C. § 7206(1); and one felony count of Obstructing the Administration of Internal Revenue Laws, 26 U.S.C. § 7212.

6. On September 19, 2013, Respondent Mulgrew pleaded guilty to the following charges in the Grand Jury Indictment: (1) Count One, mail fraud and conspiracy to commit mail fraud, in violation of 18 U.S.C. §§ 1341 and 1349; and (2) Count Thirty-three, filing a false personal income tax return concerning tax year 2006, in violation of 26 U.S.C. § 7201(1).

7. On August 6, 2014, United States District Judge C. Darnell Jones, II, sentenced Respondent Mulgrew to 30 month of incarceration

followed by three years of probation and ordered Respondent Mulgrew to pay restitution in the amount of \$199,000 and to pay \$123,000 owed to the Internal Revenue Service in back taxes and fines.

8. Respondent Mulgrew did not appeal his conviction at ***United States of America v. Robert Mulgrew***, Criminal No. 2:12-CR-00462-CDJ-1.

9. As a result of his quality plea and sentencing at ***United States of America v. Robert Mulgrew***, Criminal No. 2:12-CR-00462-CDJ-1, Respondent Mulgrew is a convicted felon.

10. As a result of Respondent Mulgrew's felony convictions and sentencing at Criminal No. 2:12-CR-00462-CDJ-1, the Board filed a complaint against him alleging four counts of misconduct on September 19, 2014.

11. By and through counsel, Respondent Mulgrew filed an Answer admitting, with slight corrections, the factual averments in the Board's September 19, 2014 complaint.

Part II: Procedural and Factual History

11 JD 15

12. In addition to the federal grand jury investigation described above, Respondent Mulgrew was also the subject of a federal grand jury investigation regarding his participation as a PTC judge in the practice of giving favorable treatment in traffic court cases to certain defendants based on *ex parte* requests; this practice became known as "special consideration."

13. On January 29, 2013, Respondent Mulgrew and his co-defendants were indicted by the federal grand jury at ***United States of***

America v. Michael J. Sullivan, Michael Lowry, Robert Mulgrew, Willie Singletary, Thomasine Tynes, Mark A. Bruno, William Hird, Henry P. Alfano, and Robert Moy, 2:13-CR-00039-RK.

14. The indictment charged Respondent Mulgrew with one felony count of conspiracy to commit wire fraud, 18 U.S.C. § 1349; four felony counts of wire fraud, 18 U.S.C. § 1343; 2 counts of mail fraud, 18 U.S.C. § 1341; and one felony count of perjury, 18 U.S.C. § 1623.

15. Following indictment, Respondent Mulgrew and his co-defendants proceeded to jury trial in the United States District Court for the Eastern District of Pennsylvania on May 26, 2014.

16. On July 23, 2014, following trial, the jury convicted Respondent Mulgrew of one count of perjury, a felony, which was charged at Count 70 of the Grand Jury Indictment.

17. On January 7, 2015, United States District Judge Lawrence F. Stengel sentenced Respondent Mulgrew to 18 months in prison, to be served consecutively to the 30-month sentence imposed upon Judge Mulgrew at ***United States of America v. Robert Mulgrew***, Criminal No. 2:12-CR-00462-CDJ-1.

18. Respondent Mulgrew appealed his judgment of sentence to the Third Circuit Court of Appeals.

19. While Respondent Mulgrew's appeal was pending, on June 10, 2015, the Board filed a complaint against him at 11 JD 2015 alleging two counts of misconduct arising from his felony conviction and sentence for perjury and moved to consolidate both complaints.

20. This Court stayed both 3 JD 2014 and 11 JD 2015 during the pendency of Respondent Mulgrew's direct appeal of his perjury conviction.

21. The Third Circuit has affirmed Respondent Mulgrew's sentence for perjury.

Discussion

Article V, § 18(d)(1) of the Pennsylvania Constitution states that "[a] justice, judge or justice of the peace may be suspended, removed from office or otherwise disciplined for conviction of a felony." The conviction of the felony itself provides the grounds for the imposition of discipline. *In re Conahan*, 51 A.3d 922 (Pa.Ct.Jud.Disc. 2012).

Respondent Mulgrew's misconduct (consisting of the acts described herein as well as felony convictions for fraud involving a large amount of public funds and for perjury) also obviously violates Article V, § 18(d)(1) (The Disrepute Clause), Rule 13 of the Old Rules of Conduct of Magisterial District Judges (Incompatible Conduct) and Article V, § 17(b) (Violation of Disciplinary Rules Violates Constitution).

Accordingly, we make the following Conclusions of Law:

Conclusions of Law

1. Respondent Mulgrew has been convicted of felonies and all direct appeals have ended;
2. Respondent Mulgrew violated Article V, § 18(d)(1) of the Pennsylvania Constitution by being convicted of felonies;
3. Respondent Mulgrew violated Article V, § 18(d)(1) of the Pennsylvania Constitution by bringing the judicial office into disrepute;

4. Respondent Mulgrew violated Rule 13 of the Old Rules Governing Standards of Conduct of Magisterial District Judges by engaging in acts incompatible with his duties as a judge of the Philadelphia Traffic Court;

5. Respondent Mulgrew violated Article V, §17(b) as an automatic, derivative violation by his conduct cited in Conclusions of Law 1-4 above.

Either party may file objections within ten days.