

MAY 28 2021

COURT OF JUDICIAL DISCIPLINE
OF PENNSYLVANIA

COMMONWEALTH OF PENNSYLVANIA
COURT OF JUDICIAL DISCIPLINE

IN RE: : DOCKET NO. 3 JD 2019
: :
JUDGE SCOTT DiCLAUDIO :
COURT OF COMMON PLEAS :
FIRST JUDICIAL DISTRICT :
PHILADELPHIA COUNTY :

REPLY BRIEF OF THE RESPONDENT, JUDGE SCOTT DICLAUDIO,
TO THE JUDICIAL CONDUCT BOARD'S SUGGESTION THAT JUDGE DICLAUDIO
DID NOT RESPOND BEFORE THE COURT OF JUDICIAL DISCIPLINE

The Respondent, Judge Scott DiClaudio, by his counsel, Samuel C. Stretton, Esquire, is filing a very short Reply Brief to the suggestion in the Brief of the Judicial Conduct Board that Judge DiClaudio engaged in the same conduct before the Court of Judicial Discipline, and therefore, there was some sort of pattern. The Respondent, by his counsel, emphatically disagrees with that comment.

First, the fact that Judge DiClaudio did not file an Answer to the Judicial Complaint is of no merit since there is no requirement that an Answer be filed. In fact, in many of the cases where Mr. Stretton has represented judicial officers over the years, most times he did not file an Answer to the Complaint. Under the Rules of Procedure for the Court of Judicial Discipline, Rule 413, there is no requirement to file an Answer. In fact, the Rule states that failure to file an Answer shall be deemed denial of all factual allegations. The Rule also notes that unless there is a further Order of the

Court, no additional pleadings will be accepted. [See Rule 413 of the Rules of Procedure of the Court of Judicial Discipline].

In the Brief by the Judicial Conduct Board on this subject, ignored the fact that most of the court systems were shut down, and/or people were not physically working in the office beginning in March of 2020 until even now. As a result, communicating was difficult. The Philadelphia court system where Judge DiClaudio worked was at a stand-still and essentially closed down from March 12, 2020 until June of 2020 and is still closed down to some extent.

Judge DiClaudio had to remain in quarantine for a number of days in March of 2020 since he had been exposed to the virus.

Judge DiClaudio has cooperated with the investigation. When the Complaint was served upon Judge DiClaudio, the agent who served the Complaint couldn't print it out. As a result, Judge DiClaudio and his staff helped the Agent print the Complaint out, and Judge DiClaudio then accepted service.

Judge DiClaudio had a planned, prepaid vacation in January of 2020 and was out of the United States. On January 18, 2020, he emailed and called Judicial Counsel, Melissa Norton, and had approximately four communications with her during that time period in or around January 18, 2020. He also had communications with Ms. Norton on February 1, 2020 and spoke to her again at least twice between February 11, 2020 and February 20, 2020.

Judge DiClaudio was at the same time seeking to retain counsel and was interviewing various people. He met with one potential attorney, but that person could not handle the case. After that, Judge DiClaudio actively sought other counsel. He spoke to Attorney John Summers and also had spoken to present counsel, Samuel C. Stretton, Esquire. Judge DiClaudio had set up an interview with Attorney John Summers and met with Attorney Summers in Mr. Summers' office. Judge DiClaudio sent emails to Mr. Metz and Ms. Norton during that time period.

Judge DiClaudio then made the decision to hire Attorney Summers in March of 2020, but things got delayed since Judge DiClaudio was in quarantine. Mr. Metz and Ms. Norton apparently tried to confirm that Mr. Summers had been hired. It was Judge DiClaudio's understanding that Mr. Summers had reached out to Judicial Counsel and had spoken to them in late March or April of 2020.

Unfortunately, Judge DiClaudio was not able to afford to hire Mr. Summers because of the fee agreement where the hourly rate would be \$650.00 per hour, and estimated legal fees to be over \$100,000.00. Once that broke down, Judge DiClaudio indicated he spoke to Mr. Metz and also Ms. Norton about representing himself. Judge DiClaudio recalls speaking on or around June 5, 2020 with Mr. Metz about setting up a pretrial conference. Judge DiClaudio then, in the summer of 2020, spoke

to other lawyers and then finally retained present counsel, Samuel C. Stretton, Esquire, at the end of the summer. Mr. Stretton entered his appearance on or about September 15, 2020. Since that time, Mr. Stretton has responded to deadlines and cooperated fully with moving this case forward to a resolution on behalf of Judge DiClaudio.

I have attached the March 2020 emails between Judicial Counsel and Judge DiClaudio's secretary, Annette Lebron (Exhibit R-59). I have also attached the December 31, 2019 communication between Judge DiClaudio and Ms. Norton (Exhibit R-60). Attached as R-61 is the March 30, 2020 communications between Judge DiClaudio, Mr. Metz and Ms. Norton. Attached as Exhibit R-61 is the March 13, 2020 email from Judge DiClaudio to Mr. Metz and Ms. Norton. Attached as R-62 is the April 30, 2020 email of Attorney John Summers to Ms. Norton. Attached as Exhibit R-63 is the email dated June 5, 2020 of Judge DiClaudio to Ms. Norton and Mr. Metz discussing the date for a conference.

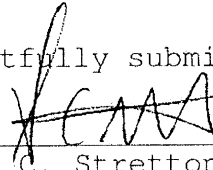
Judge DiClaudio at the end of the summer hired Mr. Stretton, who entered his appearance in September of 2020, and after that, the case moved forward.

Therefore, it does not appear there was any intentional delay. The problem was the COVID-19 virus closing down the court system, court employees working remotely, Judge DiClaudio's efforts to find counsel and Judge DiClaudio's extremely heavy

and busy court schedule in the summer and fall of 2020 when the Philadelphia Courts were attempting to open and move cases.

In conclusion, Judge DiClaudio, by and through his counsel, Samuel C. Stretton, Esquire, respectfully contends that there was no ignoring of this Honorable Court by Judge DiClaudio in his case. He respectfully contends this should not be an issue.

Respectfully submitted,



Samuel C. Stretton, Esquire
Attorney for the Respondent,
Judge Scott DiClaudio
103 South High Street
P.O. Box 3231
West Chester, PA 19381-3231
(610) 696-4243
Attorney I.D. No. 18491

COMMONWEALTH OF PENNSYLVANIA
COURT OF JUDICIAL DISCIPLINE

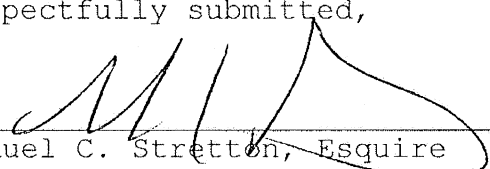
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JUDGE SCOTT DiCLAUDIO :
COURT OF COMMON PLEAS :
FIRST JUDICIAL DISTRICT :
PHILADELPHIA COUNTY :

CERTIFICATE OF COMPLIANCE

I, Samuel C. Stretton, Esquire, certify that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.

Respectfully submitted,

5/27/21
Date



Samuel C. Stretton, Esquire
Attorney for the Respondent,
Honorable Scott DiClaudio
103 South High Street
P.O. Box 3231
West Chester, PA 19381-3231
(610) 696-4243
Attorney I.D. No. 18491

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CERTIFICATE OF SERVICE

I hereby certify I am this date serving a copy of the foregoing Reply Brief on behalf of the Respondent in the captioned matter upon the following persons in the manner indicated below.

Service by email & Federal Express, overnight delivery addressed as follows:

1. Cathy Kane, Court Administrator
Court of Judicial Discipline
Pennsylvania Judicial Center
601 Commonwealth Ave., Suite 5500
P.O. Box 62595
Harrisburg, PA 17106-2595
Cathy.Kane@pacourts.us

Service by email addressed as follows:

2. Melissa L. Norton, Esquire
Deputy Counsel
Judicial Conduct Board
Pennsylvania Judicial Center
P.O. Box 52525
Harrisburg, PA 17106-2525
Melissa.norton@jcbpa.org

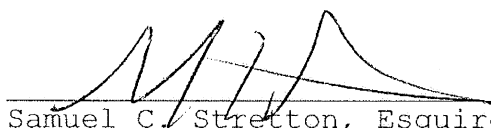
3. Joseph U. Metz, Esquire
Chief Counsel
Court of Judicial Discipline
Pennsylvania Judicial Center
601 Commonwealth Ave., Suite 550
P.O. Box 62595
Harrisburg, PA 17106-2595
Joseph.Metz@pacourts.us

4. Honorable Scott DiClaudio
Criminal Justice Center
1301 Filbert Street
Suite 1415
Philadelphia, PA 19107
sdiclaudio13@gmail.com

Respectfully submitted,

5/27/21

Date



Samuel C. Stretton, Esquire
Attorney for the Respondent,
Judge Scott DiClaudio
103 South High Street
P.O. Box 3231
West Chester, PA 19381-3231
(610) 696-4243
Attorney I.D. No. 18491

Lebron, Annette

From: Lebron, Annette
Sent: Tuesday, May 25, 2021 2:22 PM
To: DiClaudio, Scott
Subject: FW: In re DiClaudio, No. 3 JD 2019

From: Lebron, Annette
Sent: Tuesday, March 3, 2020 1:02 PM
To: Kane, Cathy <Cathy.Kane@pacourts.us>
Subject: RE: In re DiClaudio, No. 3 JD 2019

Thank you Cathy. I appreciate your help.
Have a great day also.

Annette

From: Kane, Cathy [<mailto:Cathy.Kane@pacourts.us>]
Sent: Tuesday, March 03, 2020 12:57 PM
To: Lebron, Annette <Annette.Lebtron@courts.phila.gov>
Subject: RE: In re DiClaudio, No. 3 JD 2019

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Thank you Annette. I will pass this along to our counsel.

Have a great day.
Cathy

From: Lebron, Annette <Annette.Lebtron@courts.phila.gov>
Sent: Tuesday, March 3, 2020 12:52 PM
To: Metz, Joseph <Joseph.Metz@pacourts.us>
Cc: Kane, Cathy <Cathy.Kane@pacourts.us>; Norton, Melissa L. <Melissa.Norton@jcbpa.org>
Subject: RE: In re DiClaudio, No. 3 JD 2019
Importance: High

CAUTION: This is an external email. Please think before you click on an attachment or link!

Good afternoon,

I spoke with Judge DiClaudio and he assured me that he anticipates that his attorney will be reaching out to you by the end of the week. They are working on an agreement and will be entering his appearance.

The Judge is currently on the bench now, but if you still need to speak with him after court, he will definitely call you as soon as he is done.

R-59¹

Thank you so much for your patience.

Have a wonderful day.

Annette

Annette Lebron
Judicial Secretary for
Hon. Scott Di Claudio
The Justice Juanita Stout Center
For Criminal Justice
1301 Filbert Street, Suite 1415
Philadelphia, PA 19107
215-683-7142
215-683-7144 fax
Courtroom 905: 215-683-7436

From: Metz, Joseph
Sent: Tuesday, March 3, 2020 11:33 AM
To: Norton, Melissa L. <Melissa.Norton@jcbpa.org>
Cc: DiClaudio, Scott, Judge <scott.diclaudio@courts.phila.gov>
Subject: RE: In re DiClaudio, No. 3 JD 2019

Dear Parties:

Any progress with securing counsel Judge? The Court would like to schedule the pretrial conference soon.

Thank you,

Joe Metz

From: Norton, Melissa L. <Melissa.Norton@jcbpa.org>
Sent: Tuesday, March 3, 2020 11:14 AM
To: Metz, Joseph <Joseph.Metz@pacourts.us>
Cc: DiClaudio, Scott, Judge <scott.diclaudio@courts.phila.gov>
Subject: In re DiClaudio, No. 3 JD 2019

Please provide me with an update regarding the information you sought from Judge DiClaudio in your letter dated February 11, 2020 (attached).

Melissa L. Norton, Deputy Counsel
Judicial Conduct Board of Pennsylvania
Pennsylvania Judicial Center
601 Commonwealth Avenue
P.O. Box 62525



3 JD 2019 In re DiClaudio



Norton, Melissa L.

To: DiClaudio, Scott; 'scott diclaudio' + 1

Tue 12/31/2019 11:06 AM View more

CAUTION: This email originated from outside the organization. Do not click on links or open any attachments unless you recognize the sender and confirmed the content is safe.

This confirms our telephone conversation of this date in which you indicated that you will be contacting the Court of Judicial Discipline in order to request additional time to file an answer or motion in the above-referenced matter. You may indicate to the Court that the Board does not object to your request for additional time.

Melissa L. Norton, Deputy Counsel
Judicial Conduct Board of Pennsylvania
Pennsylvania Judicial Center
601 Commonwealth Avenue
P.O. Box 62525
Harrisburg, PA 17106
(717) 234-7911

This e-mail message and any files transmitted with it contain confidential information intended only for the person or persons to whom this e-mail message is addressed and may contain information subject to attorney-client, work product or other lawful privilege. If you have received this e-mail message in error, please notify the sender immediately by telephone or by return e-mail and destroy the original message without making a copy. Thank you.



R-slt

2:01

5GE

outlook.office365.com



Your patience has been greatly appreciated

Be well,

Scott DiClaudio

From: Metz, Joseph <Joseph.Metz@pacourts.us>
Sent: Tuesday, March 3, 2020 10:32:57 AM
To: Norton, Melissa L. <Melissa.Norton@jcbpa.org>
Cc: DiClaudio, Scott <Scott.DiClaudio@courts.phila.gov>
Subject: RE: In re DiClaudio, No. 3 JD 2019

CAUTION: This email originated from outside the organization. Do not click on links or open any attachments unless you recognize the sender and confirmed the content is safe.

Dear Parties:

Any progress with securing counsel Judge?

The Court would like to schedule the pretrial conference soon.

Thank you,

Joe Metz

From: Norton, Melissa L. <Melissa.Norton@jcbpa.org>
Sent: Tuesday, March 3, 2020 11:14 AM

←
R-61

