

COMMONWEALTH OF PENNSYLVANIA
COURT OF JUDICIAL DISCIPLINE

IN RE: : DOCKET NO. 1 JD 2024
: :
JUDGE ANTHONY SAVEIKIS :
MAGISTERIAL DISTRICT COURT :
DISTRICT 05-3-17 :
ALLEGHENY COUNTY :

OMNIBUS MOTION OF THE RESPONDENT, JUDGE ANTHONY SAVEIKIS

Judge Anthony Saveikis, by his counsel, Samuel C. Stretton, Esquire, who is working with attorneys Robert Del Greco, Jr., Esquire and David Shrager, Esquire, hereby files the Omnibus Motion pursuant to the Rules of Procedure of the Court of Judicial Discipline, Rule 411, and requests the following:

- 1) Judge Saveikis is charged in the captioned matter with a Complaint being filed on or about January 26th, 2024.
- 2) Judge Saveikis has retired from his judicial position by letter to the Governor of Pennsylvania dated January 26th, 2024.
- 3) Judge Saveikis desires to raise the following issues:

I. DISCOVERY

A) Judge Saveikis respectfully requests any and all discovery so he can properly answer the Complaint for Discipline filed. Pursuant to Rules of Procedure of the Court of Judicial Discipline, Rule 401, all discovery has to be completed within sixty (60) days upon service of the Complaint.

B) Although the Complaint was just served and the Judicial Conduct Board still has sixty (60) days, it is difficult to answer the Complaint without receiving the discovery.

C) There should be no reason why the discovery should be delayed, because presumably, the Judicial Conduct Board had all discovery prior to filing this Complaint at issue.

WHEREFORE, Judge Saveikis respectfully requests this Honorable Court order discovery in the Judicial Conduct Board's possession to be produced forthwith and that the sixty (60) day period not be required or in the alternative, extend the time to answer the Complaint until twenty (20) days after discovery is produced.

II. BURDEN OF PROOF

4) The burden of proof in Judicial Conduct Board proceedings has always been clear and convincing evidence. The Supreme Court of Pennsylvania has now taken a case for oral argument involving attorney discipline where the issue is whether or not the burden of proof in attorney disciplinary cases should be reduced from the preponderance of the evidence that is clear and satisfactory, i.e., clear and convincing evidence to just preponderance of the evidence burden of proof.

5) Judicial Conduct Board proceedings and attorney disciplinary proceedings are quasi criminal in nature, (In re

Ruffalo 390 U.S. 544, 88 Sup. Ct. 1222, [1964]). As a result, disciplinary proceedings require the higher burden of proof of clear and convincing evidence.

6) Judge Saveikis respectfully requests that this Honorable Court rule that clear and convincing evidence is still the standard and burden of proof in all proceedings before the Court of Judicial Discipline.

WHEREFORE, the Respondent, Judge Anthony Saveikis, by his counsel, Samuel C. Stretton, Esquire, respectfully requests this Honorable Court reaffirm the burden of proof of Judicial Conduct Board proceedings is still clear and convincing evidence.

III. STATUTE OF LIMITATIONS AND LACHES

7) The charge involving W.B. alleged misconduct occurred in 2018. The other two charges allege that misconduct occurred in 2022.

8) Judge Saveikis contends that the first charge should be dismissed since it is beyond the four (4) year time period and further contends the Doctrine of Laches would apply.

9) Under Judicial Conduct Board Rules of Procedure, Rule 15, it states as follows:

"Except where the Board determines otherwise for good cause, the Board shall not consider complaints arising from acts or omissions occurring more than four years prior to the date of the complaint, provided, however that when the last episode of an alleged pattern of recurring judicial misconduct arises within the four-year period the Board may consider all prior acts or

omissions related to such an alleged pattern of conduct," see Rule 15.

10) The complaints are not that similar and involve different facts. Further, the complaint with W.B. was in 2018, which is approximately four (4) years before the two other 2022 complaints.

11) The Respondent respectfully requests that Count 1 concerning W.B,'s complaint be dismissed since it is beyond the four (4) years' time period and further, the Doctrine of Laches would apply since the delay cause prejudice, (In re DeLeon 902 A.2d 1027 [Pa. Ct. of Judicial Discipline, 2006]). Judge Saveikis requests the right to amend this issue once the discovery is received.

WHEREFORE, the Respondent, Judge Anthony Saveikis, by his counsel, Samuel C. Stretton, Esquire, respectfully requests Count 1 involving W.B. be dismissed due to violation of the four (4) year rule and Doctrine of Laches.

IV. ARTICLE V, SECTION 18(D)(1) OF THE PENNSYLVANIA CONSTITUTION
ALLEGING DISREPUTE

12) Judge Saveikis respectfully requests that Count 8 alleging disrepute pursuant to Article V, Section 18(d)(1) of the Pennsylvania Constitution be dismissed.

13) The disrepute claim is a very serious claim since a disrepute finding could result in loss of judicial pension. The Respondent, Judge Anthony Saveikis, respectfully contends he did

not violate Article V, Section 18(d)(1) of the Pennsylvania Constitution and argues that his conduct did not bring the judicial office into disrepute and is requesting a pre-trial argument that the charge in disrepute be dismissed in Count 8 for the following reasons:

The charge of bringing the judicial office into disrepute is probably the most serious charge that can be brought against a judicial officer. The charge is found in Article V, Section 18(d)(1) of the Pennsylvania Constitution and reads as follows:

"A justice, judge or justice of the peace may be suspended, removed from office or otherwise disciplined for ...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 as prohibited by law;..." [Article V, Section 18(d)(1) of the Pennsylvania Constitution].

The provision at issue is "brings the judicial office into disrepute." Judge Saveikis was not charged with "prejudices the proper administration of justice." The issue of "disrepute" is the issue before this Honorable Court in Count 8.

The finding of disrepute can have very serious consequences for a judicial officer since under the Pennsylvania Constitution, under Article V, Section 16(b), such a finding could require a loss of salary or pension or benefits for conduct which "brings the judicial office into disrepute." [Article V, Section 16(b) of the Pennsylvania Constitution]. The

Judicial Conduct Board must prove the constitutional disrepute violation by clear and convincing evidence.

The seminal case on disrepute is In re Smith, 687 A.2d 1229 (Pa. Ct. Judicial Discipline, 1996). In that case, Judge Smith from Bradford County was disciplined for lengthy delays in deciding 61 cases. Some of the cases were not decided for over a three-year time period. He received a reprimand, but the Court made no finding of disrepute, although it was requested by the Judicial Conduct Board. The Court of Judicial Discipline in the Smith case noted as follows:

“Even if a judicial officer’s actions could reasonably result in a lessening of respect for the judge, it cannot be assumed that the same actions would necessarily bring the judicial office into disrepute. In other words, one might say Judge Smith has failed to decide his cases, and therefore has lost our respect. Such a finding would not sustain the Board’s burden, for the Board must show the disrepute arising from Judge Smith’s actions extends to all judges. In other words, that the wrongful actions of a judicial officer are capable of bringing the judicial office into disrepute is only the first step of the inquiry. The second step is that in fact universal disrepute resulted,” Id 1239.

There was no evidence of universal disrepute presented in the Smith case by the Judicial Conduct Board.

The same could be said here. Judge Saveikis has served over twenty (20) years and had a good reputation as a caring Judge.

A similar case is In re Daghr, 657 A.2d 1032 (Pa. Ct. Judicial Discipline, 1995). In that case Judge Daghr delayed

resolving five cases for an extended period of time, but even more importantly, accepted a gift from a divorce litigant of Penn State football tickets on the 50th yard line. Because of this misconduct, he received a seven-day suspension. But there was no finding of disrepute since it did not have the universal aspect, and in fact, disrepute was not even charged.

An example of private conduct that resulted in a finding of disrepute is the case of In re Hamilton, 932 A.2d 1030 (Pa. Ct. Judicial Discipline, 2007). The misconduct occurred when a District Judge who was at a golf outing and party at a golf course became highly intoxicated and assaulted the local Police Chief. The judge got extremely drunk at the public golf function and attacked the Chief of Police for no good reason. The judge was found to be in disrepute and was suspended for five months. He was also convicted of assault in criminal court [In re Hamilton, 932 A.2d 1030 (Pa. Ct. Judicial Discipline, 2007)]. The Hamilton case clearly fits within the concern for universal disrepute. A judicial officer getting highly drunk at a public function and then beating up the Police Chief, which received a lot of publicity, would clearly bring disrepute not only to himself, but to the judiciary. The Court of Judicial Conduct in Hamilton noted the following:

“We believe that the reasonable expectations of the public would include the expectation that a member of the judiciary, elected, as he is, to enforce the laws

would not violate them and do so on a public stage. We believe that the reasonable expectations of the public would include the expectation that a judicial officer will not act lawlessly by provoking a fist fight in the midst of a party being held at a local golf club, and then commit assault and battery on a member of the local community," Id 1034.

The Court noted that the judge, physically assaulting the off-duty Chief of Police, also verbally abused the officer's wife and failed to exercise even a modicum of the sensitivity or self-control so vital to the demands of his judicial position. Id 1034.

The Court then indicated under these facts, they had no difficulty finding the conduct was:

"...so extreme as to qualify as conduct prescribed by the Constitution as that which brings the judicial office into disrespect...the reasonable expectations of the public certainly include the expectation that its judges will act with good judgment, with a modicum of dignity and with respect for all," Id 1034.

The Court very carefully noted that it was not deciding on disrepute because of the level of, or lack of level, of media coverage. Id 1035. The Court said it would not "bestow upon the media a role in determining what is a violation of the Constitution." Id 1035, 136. The Court ended by indicating that it was up to the members of the Court "to determine these cases for conduct that is so extreme as to bring the judicial office itself into disrepute." Id 1036.

Similarly, another example of extreme personal misconduct is that of In re Singletary, 61 A.3d 402 (Pa. Ct. Judicial Discipline, 2012). In that case, Judge Singletary was found in disrepute and removed from office for showing photographs of his private part to an employee responsible for collecting impound fees on cars when he was a Judge in Philadelphia Traffic Court. This is another example of extreme misconduct, which is of a criminal nature where disrepute was clearly warranted.

The Court in Singletary, noted as follows:

"In deciding these disrepute cases, we have frequently considered the reasonable expectations of the public as these expectations related to various conduct of various judicial officers...We think that the public - even those members of the public who register the lowest scores on the sensitivity index - do not expect their judges to be conducting photo sessions featuring the judicial penis and then to be sending the photos over the electronic airwaves to another person - thereby placing that person in a position to further publish the photos to anyone he or she may deem deserving," Id 412.

The Court pointed out for disrepute, there must be an element of mens rea and not conduct that was purely accidental. Id 412. The Court rightly concluded that this conduct was so extreme as it brought the office into disrepute, Id 412.

Hamilton and Singletary are classic examples of extreme misconduct that borders on or is criminal and creates the universal aspect needed for the finding of disrepute.

Another example of disrepute is In re Kelly, 757 A.2d 456 (Pa. Ct. Judicial Discipline, 2000) where a judge called another judge asking for favorable treatment for a friend on traffic tickets. That was extreme misconduct, which resulted in the finding of disrepute and a reprimand.

Similarly, in In re Harrington, 877 A.2d 570 (Pa. Ct. Judicial Discipline, 2000), the judge was found to have brought the judicial office into disrepute by putting fake parking tickets on his car to avoid having to put money in the parking meter. This was serious dishonest conduct and resulted in a finding of disrepute.

In a case where there was no finding of disrepute, is In re Brown, 907 A.2d 684 (Pa. Ct. Judicial Discipline, 2006), Judge Brown admitted misconduct of sexual harassment and making improper comments to his female employees and also other improper statements about litigants. He was found in violation of several rules and allowed to retire, but there was no finding that his conduct brought the office into disrepute. That charge was withdrawn when he retired. As noted, Judge Saveikis has retired as of January 26th, 2024. There is no reason not to allow a similar result since Judge Saveikis has retired from his judicial office.

Another example is in the case of In re DeLeon, 967 A.2d 466 (Pa. Ct. Judicial Discipline, 2009). This was an interesting

case where the judge acted very badly. He had met a social acquaintance at a bar or restaurant, who told him a story of problems with a neighbor. Judge DeLeon went back and signed an ex parte stay away Order to help the social acquaintance. There was nothing before his Court. Judge DeLeon was disciplined and suspended for approximately three months. Initially, the Court of Judicial Discipline found him to have brought disrepute on the Court, and then the Court of Judicial Discipline reversed that finding of disrepute but without any real explanation. But that is a case where bad conduct by a judicial officer was not enough to warrant a disrepute finding, and that is consistent with the above cases.

In the case of In re Berkheimer, 930 A.2d 1255 (Pa., 2007), Judge Berkheimer was found in disrepute. His misconduct involved ten instances over several years of offensive and unwarranted statements to female employees. The Pennsylvania Supreme Court noted as follows about the extreme sexual remarks and comments:

"Appellants unwanted and offensive statements during an interview reflected poorly on the judiciary as a whole. The event was disrespectful to the judiciary and the public; combined with his offensive behavior, it brought disrepute on the entire judiciary," Id 1259.

In the case of In re Berry, 979 A.2d 991 (Pa. Ct. Judicial Discipline, 2009), Judge Berry, while a Judge of the Court of Common Pleas of Philadelphia County, had also operated his

rental real estate business out of his judicial office and had his judicial secretary manage it, accept rental payments, prepare eviction notices, etc. Judge Berry was suspended for four months and was found in disrepute. The Court in Berry noted past court decisions for findings of disrepute such as sexual harassment, failure to deposit office receipts at the end of each day, use of the "f" word in the Courtroom, public drunkenness, bogus parking tickets, calling defendants in waiting rooms morons, fighting at golf outings, repeated lateness in Court, bizarre behavior in chambers, etc. Id 996, 997. The Court noted as follows:

"The judicial officer must have engaged in conduct that is so extreme that it brings the judicial office into disrepute." Id 997.

The Court noted that the determination is made on a case-by-case basis, Id 997. The Court then noted as follows in Berry:

"It is thus clear, that our determinations of whether particular conduct is such that brings the judicial office into disrepute, are to be made as if the public knows about it. Indeed, how can it be otherwise?" Id 999, 1000.

The Court then held that Judge Berry's conduct with running the real estate business in his judicial office did bring his office into disrepute. Id 1001. The reasons were, first that Judge Berry operated his real estate business for twelve years out of his chambers until he got caught. Second was the manner in which he ran his business. The properties were in poor condition,

there were a number of citations issued against him by the City. The third reason found by the Court was the reality that he ran the business out of his judicial office with absolutely no overhead. Id 1001. The Court noted as follows:

"We find that the Respondent's active operation of a real estate business out of his judicial office, at the very least, trivializes the fundamental concept we find that Respondent's conduct in this business and the use of his judicial secretary to manage the day to day operation of the business demonstrated a flagrant, open, disregard for the dignity of the judicial office. It also demonstrated a total disregard for citizens of the Commonwealth, including those who elected him..." Id 1001, 1002.

The Court noted misappropriating the funds for paying business expenses. Id 1002, 1003. The Court found Judge Berry's conduct was extreme, and therefore found disrepute.

Judge Berry's case was different from the present case. It involved a business for personal gain, operating out of the actual judicial office and for many years.

In the case of In re Merlo, 58 A.3d 1 (Pa., 2012), Judge Merlo, who had numerous violations, including not showing up on time, taking 60 to 70 days off and yelling at litigants, was found in disrepute. The Court gave some advice on what to look for:

"It is fair to say that difficulty in deciding these cases has not been in determining whether the conduct is bad or reprehensible or whether it makes a particular judge look bad, the difficulty has been in determining whether the conduct of the particular judge makes everyone look bad, whether it makes judges

collectively look bad, whether the conduct gives all judges a bad name... whether it is such that brings the office into disrepute," Id 17 and 18.

In Merlo, the Court was particularly upset with Judge Merlo's calling off and missing many days, and often times calling out the day of the hearing after people were sitting and waiting. The Court found that conduct beyond egregious. Id 18, 19. The Pennsylvania Supreme Court in Merlo actually found if a judge always appears late, that would be a violation of the disrepute constitutional requirement. Id 19. The Pennsylvania Supreme Court noted a finding that a judge has engaged in offense, confrontational or discourteous conduct on the bench may support a finding of disrepute, Id 20.

A recent case where there was no finding of disrepute despite bad conduct by a judge when he was not on the bench is the case of In re Maruszczak, 220 A.3d 742 (Pa. Ct. Judicial Discipline, 2019). Judge Maruszczak received a reprimand. There were conditions for a psychological assessment. His misconduct occurred after he discovered three of his former friends and political supporters were now supporting his election opponent. The Court noted as follows:

"Respondent Maruszczak's conduct arose out of his surprise and anger at finding former political supporters instead backing his political opponents. Such conduct while clearly wrong, is more understandable when it occurs in the course of a hard-fought election rather than the normal courses of

judicial proceedings. Such conduct warrants a sanction nevertheless," Id 744.

Judge Maruszczak's conduct did consist of screaming at former friends now supporting his election opponent in public and leaving threatening notes in a mailbox or on voicemail. The Court noted as follows:

"The effect the misconduct has upon the integrity and respect for the judiciary - although Respondent Maruszczak's conduct was clearly wrong, it was not found to amount to a violation of the disrepute clause." Id 744, 745.

In evaluating disrepute, the case of In re Eakin, 150 A.3d 1042 (Pa. Ct. Judicial Discipline, 2016) must be reviewed. In that case, Justice Eakin was involved in sending emails that contained nudity, inappropriate references to race, sex and ethnicity, among other things. Judge Eakins used his government supplied computer for some of these emails. There was no finding of disrepute in that particular case, and perhaps the disrepute had been withdrawn. It is unclear from the Opinion. [In re Eakin, 150 A.3d 1042 (Pa. Ct. Judicial Discipline, 2016)].

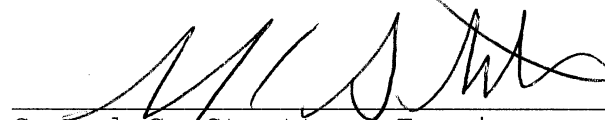
Recently, in the case of In re Cabry, 2 JD 2021 (Pa. Ct. Judicial Discipline, 2023), Judge Cabry was found in violation of campaign reports as the result of a criminal conviction. He pled to a misdemeanor. He was not found in disrepute and the violation of disrepute was dismissed. Judge Cabry had taken personal campaign funds of over \$3,000.00 for his own use and

committed a crime in falsely swearing to the truth in his campaign reports. He resigned his judicial position. He agreed never to seek judicial office again. He was "severely reprimanded". There was no disrepute. Judge Saveikis' case should be resolved in the same way.

In Judge Saveikis' case, he is retired. There does not appear to be universal disrepute required for a finding of disrepute. A finding of disrepute is done on a case-by-case basis. Apparently, there are issues of mental illness which would provide mitigation similar to Judge Cabry's case. Under all of these facts, consistent with the above cited case law, it does not appear that Judge Saveikis' conduct would arise to the level of disrepute particularly with his resignation and cooperation.

WHEREFORE, the Respondent, Judge Anthony Saveikis, by his counsel, Samuel C. Stretton, Esquire, respectfully requests this Honorable Court dismiss Count 8 of the disrepute charge for all of the above stated reasons.

Respectfully submitted,

A handwritten signature in black ink, appearing to read 'S. C. Stretton', is written over a horizontal line.

Samuel C. Stretton, Esquire
Attorney for the Respondent,
Judge Anthony Saveikis
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

IN RE: : DOCKET NO. 1 JD 2024
:
JUDGE ANTHONY SAVEIKIS :
MAGISTERIAL DISTRICT COURT :
DISTRICT 05-3-17 :
ALLEGHENY COUNTY :

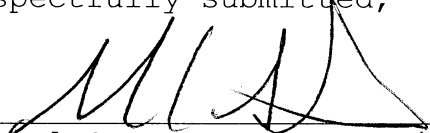
CERTIFICATE OF COMPLIANCE

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,

2/9/24

Date


Samuel C. Stretton, Esquire
Attorney for the Respondent,
Judge Anthony Saveikis
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

IN RE: : DOCKET NO. 1 JD 2024
:
JUDGE ANTHONY SAVEIKIS :
MAGISTERIAL DISTRICT COURT :
DISTRICT 05-3-17 :
ALLEGHENY COUNTY :

CERTIFICATE OF SERVICE

I hereby certify I am this date serving a copy of the foregoing Omnibus Motion in the captioned matter upon the following persons in the manner indicated below.

Service by electronic mail addressed as follows:


1. Joseph U. Metz, Esquire
Chief Counsel
Court of Judicial Discipline
Pennsylvania Judicial Center
601 Commonwealth Avenue
Suite 550
P.O. Box 62595
Harrisburg, PA 17106-2595
Email: Joseph.Metz@pacourts.us
2. Stephanie Stump
Court Administrator
Court of Judicial Discipline
Pennsylvania Judicial Center
601 Commonwealth Avenue
Suite 550
P.O. Box 62595
Harrisburg, PA 17106-2595
Email: Stephanie.Stump@pacourts.us

3. Elizabeth A. Hoffheins, Esquire
Deputy Counsel
Judicial Conduct Board
601 Commonwealth Avenue
Suite 3500
P.O. Box 62525
Harrisburg, PA 17106-2525
Email: Elizabeth.Hoffheins@jcbpa.org
4. Robert G. Del Greco, Jr., Esquire
Dickie McCamey & Chilcote, Attorneys at Law
2 PPG Place
Suite 400
Pittsburg, PA 15222
Email: RDelGreco@dmclaw.com
5. David J. Shrager, Esquire
David J. Shrager & Associates
437 Grant Street
Suite 617
Pittsburg, PA 15219
Email: David@Shragerdefense.com
6. Judge Anthony Saveikis
422 Lincoln Highlands Drive
Corapolis, PA 15108
Email: Tony.Saveikis@gmail.com

Respectfully submitted,

2/9/24

Date



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