

**COMMONWEALTH OF PENNSYLVANIA
COURT OF JUDICIAL DISCIPLINE**

IN RE:

Michael R. Muth :
Magisterial District Judge :
Magisterial District 43-2-02 : 2 JD 2017
43rd Judicial District :
Monroe County :

RECEIVED
JUDICIAL DISTRICT
CLERK
2017 JUN 05 P 1:54

TO: MICHAEL R. MUTH

You are hereby notified that the Pennsylvania Judicial Conduct Board has determined that there is probable cause to file formal charges against you for conduct proscribed by Article V, § 17(b) and § 18(d)(1) of the Constitution of the Commonwealth of Pennsylvania, and the Old and New Rules Governing Standards of Conduct of Magisterial District Judges. The Board's counsel will present the case in support of the charges before the Pennsylvania Court of Judicial Discipline.

You have an absolute right to be represented by a lawyer in all proceedings before the Court of Judicial Discipline. Your attorney should file an entry of appearance with the Court of Judicial Discipline within fifteen (15) days of service of this Board Complaint in accordance with C.J.D.R.P. No. 110.

You are hereby notified, pursuant to C.J.D.R.P. No. 302(B), that should you elect to file an omnibus motion, that motion should be filed no later than thirty (30) days after the service of this Complaint in accordance with C.J.D.R.P. No. 411.

You are further hereby notified that within thirty (30) days after the service of this Complaint, if no omnibus motion is filed, or within twenty (20) days after the dismissal of all or part of the omnibus motion, you may file an Answer admitting or denying the allegations contained in this Complaint in accordance with C.J.D.R.P. No. 413. Failure to file an Answer shall be deemed a denial of all factual allegations in the Complaint.

COMPLAINT

AND NOW, this 5th day of July, 2017, comes the Judicial Conduct Board of the Commonwealth of Pennsylvania (Board) and files this Board Complaint against the Honorable Michael R. Muth, Magisterial District Judge for Magisterial District 43-2-02 of Monroe County, Pennsylvania, alleging that Judge Muth has violated the Rules Governing Standards of Conduct of Magisterial District Judges (R.G.S.C.M.D.J.) (both Old and New), and Article V, § 17(b) and 18(d)(1) of the Constitution of the Commonwealth of Pennsylvania, as more specifically delineated herein.

1. Article V, § 18 of the Constitution of the Commonwealth of Pennsylvania grants to the Board the authority to determine whether there is probable cause to file formal charges against a judicial officer in this Court, and thereafter, to prosecute the case in support of such charges in this Court.
2. From January 2, 2006 to the present, Judge Muth has served continuously as a duly elected Magisterial District Judge for Magisterial District Court No. 43-2-02 in Monroe County, Pennsylvania.
3. As a duly elected Magisterial District Judge, Judge Muth was at all times relevant hereto subject to all the duties and responsibilities imposed on him by the Constitution of the Commonwealth of Pennsylvania and the R.G.S.C.M.D.J. (both Old and New) adopted by the Supreme Court of Pennsylvania.
4. As a judicial officer, Judge Muth was at all times relevant hereto required to "ensure adherence to and compliance with" the Unified Judicial System of Pennsylvania Policy on Non-Discrimination and Equal Employment Opportunity, effective January 1, 2008 (revised Nov. 2013)(UJS Policy).

5. Based on information received by the Judicial Conduct Board on August 15, 2016, an investigation was begun and filed to JCB File No. 2016-496.
6. As a result of its investigation, and pursuant to Article V, § 18(a)(7) of the Constitution of the Commonwealth of Pennsylvania, the Board determined that there is probable cause to file formal charges against Judge Muth in this Court.
7. Some of the alleged judicial misconduct occurred prior to December 1, 2014 and therefore, the Old R.G.S.C.M.D.J. apply to those allegations of misconduct.
8. Some of the alleged judicial misconduct occurred after November 30, 2014 and therefore, the New R.G.S.C.M.D.J. apply to those allegations of misconduct.

A. Viewing and Displaying Pornography in Court Offices

9. During September or October of 2013, during regular office hours, a court clerk, employed by Monroe County and assigned to work in District Court 43-2-02 (clerk A) entered Judge Muth's judicial office (judicial chambers) through the open door.
10. Clerk A's intent was to confer with Judge Muth regarding a district court matter.
11. When clerk A entered Judge Muth's judicial chambers, she observed that he was seated at his desk.
12. No other individual was in Judge Muth's judicial chambers when clerk A entered.
13. Clerk A observed that a video was playing, without sound, on a computer screen on Judge Muth's desk.
14. The video depicted two nude adult females engaged in sexual activity with each other.

15. Judge Muth made no effort to obstruct clerk A's view of the video, nor did he attempt to stop or hide the video.
16. The computer screen on which the video was playing was positioned in such a manner that any person walking into Judge Muth's judicial chambers could see the display.
17. On a date between January 2006 and July 2013, during regular office hours, a court clerk employed by Monroe County and assigned to work in District Court 43-2-02 (clerk B) entered Judge Muth's judicial chambers through the open door.
18. Clerk B's intent was to confer with Judge Muth regarding a district court matter.
19. Clerk B observed that Judge Muth was seated at his desk.
20. Clerk B observed that photographs of naked and partially naked adult females were displayed on a computer screen on Judge Muth's desk.
21. Each of the naked and partially naked females in the photographs were depicted in sexually explicit poses.
22. Clerk B observed that Judge Muth unsuccessfully attempted to minimize the images on the computer screen when she entered his judicial chambers.
23. The images of naked and partially naked females remained visible to clerk B the entire time she was in Judge Muth's judicial chambers.
24. On three separate occasions, over a period of several months approximately four years prior to October of 2016, a court clerk employed by Monroe County and assigned to work in District Court 43-2-02 (clerk C) entered Judge Muth's judicial chambers through the open door.
25. Clerk C's intent was to confer with Judge Muth regarding a district court matter.

26. Clerk C observed photographs of naked and partially naked adult females displayed on a computer screen on Judge Muth's desk.
27. Each of the naked and partially naked females were depicted in sexually explicit poses.
28. On one of the three occasions when clerk C observed the photographs of naked and partially naked females on Judge Muth's computer screen, the photographs were arranged in a collage-type format with the display covering a large portion of the computer screen.
29. On one of the three occasions when clerk C observed the photographs of naked and partially naked females on Judge Muth's computer screen, Judge Muth unsuccessfully attempted to minimize the images, causing clerk C to immediately leave Judge Muth's judicial chambers.
30. At his February 24, 2017 Board deposition, Judge Muth confirmed that he possessed and viewed photographs of naked or partially naked women on a computer in his judicial chambers during times when clerk's A, B and C were present in the District Court office.

B. Utilizing Court Staff and Court Equipment for Non-Court Related Tasks

31. Judge Muth is employed as a part-time assistant professor at East Stroudsburg University (ESU), located in East Stroudsburg, Pennsylvania.
32. Judge Muth has been so employed at ESU for approximately 20 years.
33. During the Fall semester of each academic year at ESU, Judge Muth has taught one or two classes.

34. During the Spring semester of each academic year at ESU, Judge Muth has taught one class.
35. The number of students in each class taught by Judge Muth varies.
36. As a professor at ESU, Judge Muth administers two written examinations per semester to students enrolled in his class.
37. Beginning on an unknown date in 2006, shortly after Judge Muth began serving as a Magisterial District Judge, and continuing until December of 2016, Judge Muth utilized clerks A, B and C to grade examinations he administered to his ESU students by requesting that clerks A, B and C review and determine the number of correct and incorrect answers on the examinations.
38. Judge Muth utilized clerks A, B, and C to grade the examinations while they were employed by Monroe County in District Court 43-2-02, during regular office hours in the court facility.
39. At his February 24, 2017 Board deposition, Judge Muth admitted that he utilized clerks A, B and C to grade the ESU student examinations in the manner set forth above.
40. Monroe County supplies District Court 43-2-02 with a copying machine.
41. Monroe County is responsible for the costs associated with all maintenance and supplies used in the operation of the copying machine in District Court 43-2-02.
42. As part of the curriculum for the classes Judge Muth teaches at ESU, he has occasionally provided copies of printed documents to his ESU students.
43. Beginning on an unknown date in 2006, shortly after he began serving as a Magisterial District Judge, and continuing until December of 2016, clerks A, B,

and C have used the court copying machine to produce multiple copies of documents for Judge Muth to provide to his ESU students.

44. The copies of the documents that clerks A, B, and C made for Judge Muth's ESU students on the District Court copying machine were made during regular office hours in the court facility at the request of Judge Muth.
45. At his February 24, 2017 Board deposition, Judge Muth confirmed that he, and clerks A, B and C, utilized the court copying machine to produce copies of documents for his ESU students.

C. CHARGES

COUNT 1 - Violation of Rule 2A of the Old R.G.S.C.M.D.J.

46. By virtue of all or some of the conduct set forth in Part A, Judge Muth violated Rule 2A of the Old R.G.S.C.M.D.J., effective through November 30, 2014.
47. Rule 2, titled "Impropriety and the Appearance of Impropriety to be Avoided", provides in pertinent part:
 - A. Magisterial district judges shall respect and comply with the law and shall conduct themselves at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

Old R.G.S.C.M.D.J. No. 2A.

a. Viewing and displaying photographs and videos of nude women

48. By his conduct in his judicial chambers of viewing and displaying a video on his computer depicting nude women engaged in sexual activity in the presence of clerk A and photographs depicting naked and partially naked women in sexually explicit poses in the presence of clerks B and C, Judge Muth failed to

respect and comply with the law and failed to conduct himself in a manner that promotes public confidence in the integrity and impartiality of the judiciary.

49. As a result of all or some of the conduct set forth in Part A, Judge Muth violated Rule 2A of the Old R.G.S.C.M.D.J..

b. Failure to ensure adherence to and compliance with the UJS Policy

50. The Supreme Court of Pennsylvania has declared that the purpose of the UJS Policy is to “ensure that all individuals having business with the UJS are treated in a dignified, civil, respectful, and non-discriminatory manner.”
51. Under the UJS Policy, the Supreme Court mandated that “all judicial officers . . . shall ensure adherence to and compliance with this Policy[.]”
52. Under the UJS Policy, the Supreme Court mandated that “all judicial officers . . . are obligated to take appropriate measures to ensure that prohibited conduct does not occur, or is properly reported, if observed.”
53. Under the UJS Policy, the Supreme Court mandates that “[a]ny judicial officer . . . who – after proper investigation by the appropriate authority – has been found to have violated this Policy . . . may be subject to appropriate remedial or disciplinary action by . . . the Court of Judicial Discipline (in the case of judicial officers.)
54. The UJS Policy, provides in pertinent part:
- 2. Prohibition Against Harassment
 - a. Sexual Harassment
- ... Sexual Harassment may take different forms including, but not limited to the following examples.
- ...

2. Non-Verbal: Display of sexually suggestive objects or pictures[.]

55. By his conduct in his judicial chambers of viewing and displaying a video on his computer depicting nude women engaged in sexual activity in the presence of clerk A and photographs depicting naked and partially naked women in sexually explicit poses in the presence of clerks B and C, Judge Muth failed to ensure adherence to and compliance with the UJS Policy by failing to ensure that clerks A, B and C were treated in a dignified, civil, respectful and non-discriminatory manner and by subjecting clerks A, B and C to sexual harassment.
56. By his failure to ensure adherence to and compliance with the UJS Policy relative to his conduct in the presence of clerks A, B and C as set forth in Part A, Judge Muth failed to respect and comply with the law.
57. As a result of all or some of the conduct set forth in Part A, Judge Muth violated Rule 2A of the Old R.G.S.C.M.D.J..

COUNT 2 - Violation of Rule 4C of the Old R.G.S.C.M.D.J.

58. By virtue of all or some of the conduct set forth in Part A, Judge Muth violated Rule 4C of the Old R.G.S.C.M.D.J., effective through November 30, 2014.
59. Rule 4, title "Adjudicative Responsibilities", provides in pertinent part:
- C. Magisterial district judges shall be patient, dignified and courteous to . . . others with whom they deal in their official capacity[.]

Old R.G.S.C.M.D.J. No. 4C.

60. By his conduct in his judicial chambers of viewing and displaying a video on his computer depicting nude women engaged in sexual activity in the presence

of clerk A and photographs depicting naked and partially naked women in sexually explicit poses in the presence of clerks B and C, Judge Muth failed to be patient, dignified and courteous to others with whom he was dealing in his official capacity.

61. As a result of all or some of the conduct set forth in part A, Judge Muth violated Rule 4C of the Old R.G.S.C.M.D.J.

COUNT 3 – Violation of Rule 5A of the Old R.G.S.C.M.D.J

62. By virtue of all or some of the conduct set forth in Part B, Judge Muth violated Rule 5A of the Old R.G.S.C.M.D.J., effective through November 30, 2014.

63. Rule 5, titled "Administrative Responsibilities", provides in pertinent part:

A. Magisterial district judges shall diligently discharge their administrative responsibilities, maintain competence in judicial administration and facilitate the performance of the administrative responsibilities of their staff[.]

Old R.G.S.C.M.D.J. No. 5A.

64. By his conduct beginning on an unknown date in 2006, not long after he began serving as a Magisterial District Judge, and continuing until November 30, 2014, of utilizing clerks A, B and C to grade examinations he administered to his ESU students in the manner set forth in Part B, Judge Muth failed to diligently discharge his administrative responsibilities in that he failed to facilitate the performance of the administrative responsibilities of his court staff.
65. As a result of all or some of the conduct set forth above, Judge Muth violated Rule 5A of the Old R.G.S.C.M.D.J..

COUNT 4 – Violation of Rule 3B of the Old R.G.S.C.M.D.J.

66. By virtue of all or some of the conduct from 2006 through November 30, 2014 set forth in Part B, Judge Muth violated Rule 3B of the Old R.G.S.C.M.D.J., effective through November 30, 2014.

67. Rule 3, titled "Priority of Judicial Business", provides in pertinent part:

B. Magisterial district judges shall not use or permit the use of the premises established for the disposition of their magisterial business for any other occupation, business, profession or gainful pursuit.

Old R.G.S.C.M.D.J. No. 3B.

68. By his conduct beginning on an unknown date in 2006, not long after he began serving as a Magisterial District Judge, and continuing until November 30, 2014, of using and permitting clerks A, B and C to use the court copying machine to produce copies of documents for distribution to his ESU students in the manner set forth in Part B, Judge Muth used and permitted the use of the premises and equipment established for the disposition of the magisterial business for another occupation, business, profession or gainful pursuit.

69. As a result of all or some of the conduct set forth above, Judge Muth violated Rule 3B of the Old R.G.S.C.M.D.J..

COUNT 5 – Violation of Rule 2.1 of the New R.G.S.C.M.D.J.

70. By virtue of all or some of the conduct from December 1, 2014 through 2016 set forth in Part B, Judge Muth violated Rule 2.1 of the New R.G.S.C.M.D.J., effective December 1, 2014.

71. Rule 2.1 is titled "Giving Precedence to the Duties of Judicial Office" and provides:

The duties of judicial office, as prescribed by law, shall ordinarily take precedence over a magisterial district judge's personal and extrajudicial activities.

New R.G.S.C.M.D.J. No. 2.1.

72. By his conduct beginning on December 1, 2014 and continuing through December 2016, of utilizing clerks A, B and C to grade examinations he administered to his ESU students in the manner set forth in Part B, Judge Muth failed to give precedence to his judicial duties over his personal and extra judicial activities.

73. By his conduct beginning on December 1, 2014 and continuing through December 2016, of using and permitting clerks A, B and C to use the court copying machine to produce copies of documents for distribution to his ESU students in the manner set forth in Part B, Judge Muth failed to give precedence to his judicial duties over his personal and extra judicial activities.

74. As a result of all or some of the conduct set forth above, Judge Muth violated Rule 2.1 of the New R.G.S.C.M.D.J..

**COUNT 6 – Violation of Article V, §17(b) of the
Constitution of the Commonwealth of Pennsylvania**

75. By virtue of all or some of the conduct set forth in Parts A and B, Judge Muth violated Article V, § 17(b) of the Constitution of the Commonwealth of Pennsylvania.

76. In pertinent part, Article V, § 17(b) provides:

Justice of the peace [magisterial district judges] shall be governed by rules or canons which shall be prescribed by the Supreme Court.

PA CONST. art. V, § 17(b).

77. A violation of the R.G.S.C.M.D.J. (both Old and New) is an automatic derivative violation of Article V, § 17(b).

78. Judge Muth violated Rules 2A, 3B, 4C and 5A of the Old R.G.S.C.M.D.J..

79. Judge Muth violated Rule 2.1 of the New R.G.S.C.M.D.J..

80. As a direct result of his violation of all or some of the Rules set forth above, Judge Muth violated Article V, § 17(b) of the Constitution of the Commonwealth of Pennsylvania.

COUNT 7 – Violation of Disrepute Clause of Article V, §18(d)(1)
of the Constitution of the Commonwealth of Pennsylvania

81. By virtue of all or some of the conduct set forth in Parts A and B, Judge Muth violated the Disrepute Clause of Article V, § 18(d)(1) of the Constitution of the Commonwealth of Pennsylvania.

82. In pertinent part, Article V, § 18(d)(1) provides:

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, whether or not the conduct occurred while acting in a judicial capacity or is prohibited by law[.]

PA. CONST. art. V, § 18(d)(1).

83. Judge Muth engaged in conduct so extreme that it brought disrepute upon the judicial office itself.

84. As a result of all or some of the conduct set forth above, Judge Muth violated the Disrepute Clause of Article V, § 18(d)(1) of the Constitution of the Commonwealth of Pennsylvania.

**COUNT 8 – Violation of Article V, §18(d)(1) of the Constitution
of the Commonwealth of Pennsylvania by a
violation of a rule prescribed by the Supreme Court**

85. By virtue of all or some of the conduct set forth in Parts A and B, Judge Muth violated a canon or rule prescribed by the Supreme Court thereby violating Article V, § 18(d)(1) of the Constitution of the Commonwealth of Pennsylvania.

86. In pertinent part, Article V, § 18(d)(1) provides:

A justice, judge, or justice of the peace may be suspended, removed from office or otherwise disciplined for . . . conduct in violation of a canon or rule prescribed by the Supreme Court.

PA. CONST. art. V, § 18(d)(1).

87. Judge Muth engaged in conduct prohibited by the Unified Judicial System Policy on Non-Discrimination and Equal Employment Opportunity prescribed by the Supreme Court.

88. As a result of all or some of the conduct set forth above, Judge Muth violated Article V, 18(d)(1) of the Constitution of the Commonwealth of Pennsylvania.


WHEREFORE, Michael R. Muth, a Magisterial District Judge of Monroe County Pennsylvania, is subject to disciplinary action pursuant to the Constitution of the Commonwealth of Pennsylvania, Article V, § 18(d)(1).

Respectfully submitted,

ROBERT A. GRACI
Chief Counsel

DATE: July 5, 2017

By:


MELISSA L. NORTON
Assistant Counsel
Pa. Supreme Court ID No. 46684

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**COMMONWEALTH OF PENNSYLVANIA
COURT OF JUDICIAL DISCIPLINE**

IN RE:

Michael R. Muth :
Magisterial District Judge :
Magisterial District 43-2-02 : 2 JD 2017
43rd Judicial District :
Monroe County :

VERIFICATION

I, Melissa L. Norton, Assistant Counsel to the Judicial Conduct Board, verify that the Judicial Conduct Board found probable cause to file the formal charges contained in the Board Complaint. I understand that the statements herein are made subject to the penalties of 18 Pa. Cons. Stat. Ann. § 4904, relating to unsworn falsification to authorities.

Respectfully submitted,

ROBERT A. GRACI
Chief Counsel

July 5, 2017

BY:



Melissa L. Norton
Assistant Counsel
Pa. Supreme Court ID No. 46684

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Magisterial District Judge :
Magisterial District 43-2-02 : 2 JD 2017
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Monroe County :

PROOF OF SERVICE

In compliance with Rule 122(D) of the Court of Judicial Discipline Rules of Procedure, on or about July 5, 2017, a copy of this *BOARD COMPLAINT* was sent by UPS Overnight Delivery to Joel L. Frank, Esquire, counsel to Magisterial District Judge Michael R. Muth, at the following address:

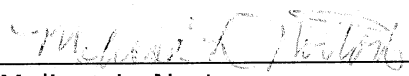
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Respectfully submitted,

ROBERT A. GRACI
Chief Counsel

July 5, 2017

BY:



Melissa L. Norton
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