

**STATE OF VERMONT
JUDICIAL CONDUCT BOARD**

FILED
AUG 12, 2021
STATE OF VERMONT
JUDICIAL CONDUCT BOARD

In re: Honorable Charles Delaney**Docket No. 19.019**

FORMAL COMPLAINT

This Formal Complaint is filed pursuant to Rule 7(4) of the Rules of Supreme Court for Disciplinary Control of Judges. It arises from a Complaint filed with the Judicial Conduct Board (“JCB”) on or about July 24, 2019. Based on the investigation of that Complaint by Special Counsel, the JCB has found probable cause that Assistant Judge Charles Delaney violated Canon 1, Rule 1.1, and Rule 1.2 of the Vermont Code of Judicial Conduct.

NOTICE

Judge Delaney has the right to file a written answer within 21 days of service of this Formal Complaint and to be represented by an attorney of his choice who may cross-examine witnesses and produce evidence on the Judge’s behalf.

FACTUAL BASIS

1. The JCB has jurisdiction over this matter pursuant to Rule 3(1) of the Rules of Supreme Court for Disciplinary Control of Judges because all times relevant to this matter, Assistant Judge Charles Delaney served as an Assistant Judge for Chittenden County along with Assistant Judge Constance Ramsey.¹ Furthermore, the complaint against Assistant Judge Delaney was made within three years from the date Assistant Judge Delaney ended his judicial service.

¹ The Complaint asserted the same claim against both Assistant Judge Ramsey and Assistant Judge Delaney. The claim against Assistant Judge Ramsey was resolved by a Stipulated Formal Complaint and Settlement Agreement that is also part of this docket.

2. An Assistant Judge's duties include the care and superintendence of county property and to make needed repairs and improvements in and around the same, including the Chittenden County Courthouse in Burlington, Vermont (the "Courthouse").
3. The Courthouse is a historic landmark that is listed on the National Register of Historic Places.
4. On or around October 29 – October 30, 2017, the Courthouse was damaged by a strong windstorm. The damage from the windstorm required repairs to the Courthouse and spurred the creation of the Courthouse Grounds Restoration Project. The project's work was significant and included:
 - a. replacing six damaged trees around the Courthouse and removing shrubs around the Courthouse;
 - b. diverting water flow away from the Courthouse so that it would not enter the Courthouse basement;
 - c. replacing the red brick Main Street walkway and the crumbling red brick pavers on the Church Street side horseshoe-shaped entrance to the Courthouse with white Vermont granite pavers;
 - d. repurposing the blue-grey Isle la Motte stone curbing by placing it around the Courthouse window wells and bordering the granite walkways; and
 - e. other repairs and improvements to the Courthouse.
5. Judge Delaney and Judge Ramsey oversaw and supervised the Courthouse Grounds Restoration Project from its initial stages until it was completed approximately one year later, in the Fall of 2018. This work involved:
 - a. reviewing proposals and bids from different architects and contractors;
 - b. meetings with the architect and contractor selected to perform the work;

- c. holding public hearings related to the Courthouse Grounds Restoration Project and providing updates to the public at the hearings and through public press releases;
 - d. oversight of the work related to the Courthouse Grounds Restoration Project, including review of the plans, materials used, and quality of workmanship; and
 - e. ensuring all improvements were consistent with and would not impact the Courthouse's status on the National Register of Historic Places.
6. Assistant Judge Delaney did not formally bill for or otherwise track or record the specific time he spent related to his oversight and supervision of the Courthouse Grounds Restoration Project, but he reports that it exceeded 150 hours of unpaid time, which is not disputed and accepted as true for purposes of this Complaint.
7. An Assistant Judge's duties include to establish the budget of the County consistent with the procedures set forth in 24 V.S.A. § 133 (the "County Budget").
8. Under the County Budget, an Assistant Judge receives a "county salary" that represents a non-hourly salary paid to the Assistant Judge for the administrative portion of their work duties.
9. Under the County Budget, an Assistant Judge also receives "Regular Pay" which is paid at an hourly rate based on time spent sitting on court cases or when they are engaged in related out-of-court activities, such as reviewing court files or attending trainings. The hourly rates are set forth in 32 V.S.A. § 1141.
10. The County Budget also includes "Merit Bonus" funds that can be used to award approved bonuses to County staff.
11. At the time that the County Budget is approved, there is no notice as to who will receive a bonus from the "Merit Bonus" portion of the County Budget because this information is

not known until a bonus is requested and approved under the County's procedure for obtaining a bonus.

12. The County's procedure for obtaining a bonus by County staff is as follows:

- a. the bonus is requested by the County staff member or on their behalf;
- b. the County Clerk confirms that the services being paid for were received and accounted for and orders the payment;
- c. the bonus is examined and allowed by the County Treasurer; and
- d. the bonus is approved by the Assistant Judges.

13. On November 28, 2018, Judge Delaney and Judge Ramsey submitted a written request to each receive a bonus payment of \$2,000.00. The bonus was requested as compensation for the work performed by the Assistant Judges in their administration and oversight of the Courthouse Grounds Restoration Project.

14. Consistent with County procedure for approving bonus payments, the requests for the bonus payment were ordered and approved by the County Clerk; recorded and reported by the County Treasurer; and Judge Delaney and Judge Ramsey approved both their own and each other's requests for the \$2,000.00 bonuses.

15. Judge Delaney and Judge Ramsey each received a \$2,000.00 bonus payment on or around December 7, 2018, which was paid from the "merit bonus" portion of the County's 2018-2019 Budget and represented a pecuniary gain and economic benefit to the Judges.

CANONS VIOLATED

16. The relevant portions of the Vermont Code of Judicial Conduct state:

Canon 1: A judge shall uphold and promote the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety.

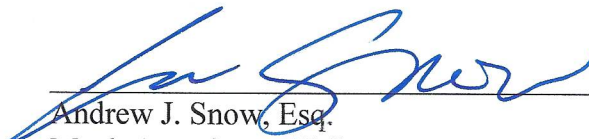
Rule 1.1: Compliance with the Law. A judge shall comply with the law, including the Code of Judicial Conduct.

Rule 1.2: Promoting Confidence in the Judiciary. A judge shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety.

17. Assistant Judge Delaney, in his capacity as Assistant Judge for Chittenden County, approved and received a bonus payment of \$2,000.00 as compensation for time that he spent on the Courthouse Grounds Restoration Project, which constituted a personal economic benefit to Judge Delaney.
18. Assistant Judge Delaney did work diligently on the Courthouse Grounds Restoration Project, nevertheless, Judge Delaney erred by using his position as Assistant Judge to approve and obtain a personal economic benefit in the form of a \$2,000.00 bonus, which violated the Vermont Code of Judicial Conduct in that it created the appearance of impropriety.

WHEREFORE, Assistant Judge Delaney's conduct as set forth in this Complaint in approving and taking a bonus payment for himself constitutes a violation of Canon 1, Rule 1.1 and Rule 1.2 of the Vermont Code of Judicial Conduct because it creates an appearance of impropriety.

DATED at Rutland, Vermont, this 6th day of August, 2021.



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