

JUDICIAL CONDUCT BOARD



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ANDREW H. MAASS, ESQ.
CHAIR

February 26, 2019

CLOSURE REPORT OF THE VERMONT JUDICIAL CONDUCT BOARD

Re: Docket No.: 19.004

This Complaint is the result of a mixture of a relief from abuse case and a criminal case, where Complainant was incarcerated at the times of the hearings in the relief from abuse case. The allegations included: (1) that the judge did not grant a request to participate by telephone in the first hearing in the relief from abuse case; (2) an implication that the judge should have arranged for Complainant to participate by telephone in the second hearing; (3) that the judge allowed the opposing party to "lie" on the record; and (4) that the judge falsified the transcript because the judge stated that the defendant in the relief from abuse matter [Complainant in this Judicial Conduct Complaint] was not present at the second hearing.

The Judicial Conduct Board conducted an initial inquiry, including a thorough review of the record in the two cases, listening to the audio of both hearings, and review of a response from the judge. The Board found that the first request to participate by telephone reached the court after the hearing had already been held, so the judge had no way of knowing that the Complainant wished to participate by telephone.

The Board further found that the Complainant made no attempt to participate in the second hearing, although Complainant was served notice. The implication from the Complaint is possibly that because the judge should have known that Complainant wanted to participate by telephone, the court should have arranged the call from jail. This is not something the court does; it is up to the parties to arrange for telephone participation in a hearing.

As for the allegations regarding "lies" on the record and that the Judge falsified the transcript, the Board found that due to Complainant's nonattendance, the judge had no contrary evidence when determining whether the testimony was credible. This would be an issue for appeal, not under the jurisdiction of this Board. There was no evidence found that supported Complainant's allegation that the judge falsified the transcript.

To the extent the Complaint alleges ethical impropriety or a violation of the Code of Judicial Conduct, the Board has determined that the Complaint is unfounded and there is no cause for further proceedings. *Rules of the Supreme Court for the Disciplinary Control of Judges*, Rule 11.

Accordingly, the Complaint in Docket No. 19.004 is DISMISSED.

JUDICIAL CONDUCT BOARD

By: _____
Andrew H. Maass, Chair