

FILED
AUG 28, 2019
STATE OF VERMONT
JUDICIAL CONDUCT BOARD

State of Vermont
Judicial Conduct Board

In Re:)
Hon. Gregory J. Glennon)

JCB Docket No. 18.024

FORMAL COMPLAINT

The Vermont Judicial Conduct Board ("Board"), in accordance with Rule 7(4) of the Rules of Supreme Court for Disciplinary Control of Judges, asserts this Formal Complaint against the Honorable Gregory Glennon (Respondent).

Board Authority

1. The Board has jurisdiction over this matter pursuant to Rule 3(1) because all Judicial Code violations set forth in this Formal Complaint occurred while Respondent served as Probate Judge in Chittenden County, Vermont.
2. The Board has jurisdiction over conduct which violates any portion of Administrative Order No. 10 Vermont Code of Judicial Conduct, including Canon 2, once Respondent became a member of and candidate for judicial office.

Facts Supporting Misconduct Charge

3. Respondent was appointed to the role of Chittenden County Probate Judge in 2016 by Governor Peter Shumlin after the retirement of Judge Susan Fowler. Respondent served out the remainder of Judge Fowler's term.
4. Judge Fowler was elected in 1994 and ran uncontested in six elections over twenty-two years.

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5. Respondent ran for his first election in 2018 in a contested race.
6. As part of his political campaign, Respondent personally contacted attorneys, including attorneys who were involved in probate matters in Chittenden County and appeared before him.
7. Respondent asked some of these attorneys if they would be willing to be a part of the campaign committee that was being formed by the Respondent around late April or early May of 2018.
8. Canon 5(c)3 of the 1990 ABA Code currently in force in Vermont provides that a candidate for election or a reelection as judge of probate ... "shall not personally solicit or accept campaign contributions or personally solicit publically stated support. A candidate may, however, establish committees and responsible persons to conduct campaigns for the candidate."
9. Canon 2 of the Vermont Code, however, prohibits the judge acting in such a way as to create an appearance of impropriety.
10. Ultimately Respondent won the election and retained his judicial position.
11. On August 6, 2018 a Judicial Misconduct Complaint form was filed anonymously with the Judicial Conduct Board regarding Respondent's actions during the course of the election.
12. The investigation following the anonymous Complaint found that some attorneys, when contacted by Respondent or by his campaign committee, felt that they might suffer retaliation if they declined to make a contribution or lend their name to Respondent's campaign committee.

Canons Violated

13. The preamble to the Vermont Code of Judicial Conduct states:

[1] Our legal system is based on the principle that an independent, fair and competent judiciary will interpret and apply the laws that govern us. The role of the judiciary is central to American concepts of justice and the rule of law. Intrinsic to all sections of the Code are the precepts that judges, individually and collectively, must respect and honor the judicial office as a public trust and strive to enhance and maintain confidence in our legal system. The judge is an arbiter of facts or law for the resolution of disputes and a highly visible symbol of government under the rule of law.

It is expected that all judges, including probate court judges, “shall comply with this Code” and each Canon.

14. The Vermont Code of Judicial Conduct Canon 2 (2012) states “a judge shall avoid impropriety and the appearance of impropriety in all the judge’s activities”.

Canon 2(b) states in part:

A judge shall not allow family, social, political or other relationship to influence the judge’s judicial conduct or judgment. A judge shall not lend the prestige of judicial office to advance the private interests of the judge or others; nor shall a judge convey or permit others to convey the impressions that they are in a special position to influence the judge. A judge shall not testify as a character witness.

15. Canon 2 protects public confidence in the judiciary from being eroded by irresponsible or improper conduct by judges, whether intentional or merely negligent in nature.
16. Respondent admits that in the spring of 2018, he did discuss his candidacy with attorneys who appear or file matters in the Chittenden Probate Court. He asked some of these attorneys to serve on the campaign committee that he was forming at that

time.

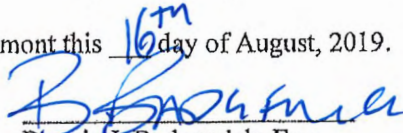
17. Respondent agrees that his conduct could have placed attorneys appearing before him and whom he contacted in the uncomfortable position of having to agree or decline to support the Judge and his reelection campaign or to assist his campaign in some capacity.
18. According to the anonymous complaint, some attorneys did in fact feel "put on the spot" when contacted by Respondent during his campaign.
19. In retrospect, Respondent agrees that, at least under the 1990 version of the Code of Judicial Conduct then in place in Vermont, the better course of action would have been to avoid any direct contact with the attorneys while they had active contested matters pending in front of Respondent.
20. During the course of investigating the anonymous Complaint, special counsel interviewed members of the Chittenden County Probate Bar and was further asked to undertake a review of Respondent's actions since being appointed as a judge that was considerably broader in scope than the original anonymous Complaint.
21. In particular, special counsel investigated the possibility of *ex parte* communications by the judge or court staff at the judge's direction.
22. No probable cause was count by special counsel for any violation of Canon 5, although probable cause was found for a violation of Canon 2. The investigation into Canon 3 was not concluded.
23. Having conducted the inquiry, the parties realize that prosecution of this matter will inevitably involve various private citizens who had business before the probate court,

and agree that a stipulated Formal Complaint with a stipulated public reprimand is the most appropriate resolution of this matter.

24. As part of the stipulated sanction, Respondent will receive additional assistance and guidance in managing his court and the matters before him. The parties further agree that although Respondent's activities did create an appearance of impropriety, Respondent had no motives of personal gain, did not gain personally from his activities and his conduct was negligent and not intentional.
25. Parties do agree that resolving this matter to encompass those issues that were or could have been investigated during the course of this investigation from the beginning of Respondent's candidacy to the present time shall be resolved by virtue of this stipulated Formal Complaint and the accompanying final settlement stipulation which outlines the terms of the mentoring.
26. The parties agree and recognize that there have been no prior ethical misconduct charges against Respondent either in his capacity as a judge or during his fourteen years as a private attorney before being appointed to the bench. The parties further agree that prompt and final resolution of the precipitating anonymous Complaint and the other concerns disclosed during special counsel's investigation is in the public interest.
27. By entering into a stipulated Formal Complaint, Respondent waives the right to file a written answer within twenty-one days hereof and to contest these stipulated allegations.
28. By entering into a Stipulated Formal Complaint, Respondent specifically waives his

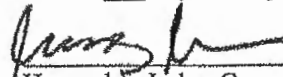
right to a formal hearing on these stipulated allegations.

DATED at Woodstock, Vermont this 16th day of August, 2019.




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DATED at Burlington, Vermont this 16 day of August, 2019.



Honorable Judge Gregory J. Glennon
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Probate Division
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(P) 802-651-1518

Approval as to form.



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