

COMMONWEALTH OF PENNSYLVANIA
COURT OF JUDICIAL DISCIPLINE

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OF PENNSYLVANIA

FEB 14 2022

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IN RE:

Michael Lowry
Former Judge
Philadelphia Traffic Court
Philadelphia County

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No. 6 JD 15

BEFORE: Honorable James C. Schwartzman, P.J., Honorable James J. Eisenhower, J., Honorable Ronald S. Marsico, J., Honorable Daniel D. McCaffery*, J., Honorable Daniel E. Baranoski, J., Honorable Jill E. Rangos, J., Honorable Thomas E. Flaherty, J., Honorable Sonya M. Tilghman*, J.

PER CURIAM

FILED: February 14, 2022

OPINION AND ORDER

Former Traffic Court Judge Michael Lowry of Philadelphia County is before this Court for the determination of the appropriate sanction for his violations found in our Opinion and Order of June 29, 2020. In that Opinion and Order this Court found ethical violations in Former Judge Lowry's conduct in having been convicted of a felony in Federal Court for lying to a grand jury regarding favoritism for selected parties before the Philadelphia Traffic Court. Former Judge Lowry was also found to have brought disrepute upon the judiciary.

Factors Considered in Determining Sanction

In determining what sanction will be imposed for an ethical violation this Court is guided by the jurisprudence of our Supreme Court, and by its prior decisions. Pennsylvania has adopted ten non-exclusive factors, sometimes called "Deming factors" from the original Washington State case where they were exposted. ***In re Roca*, 151 A.3d 739, 741 (Pa.Ct.Jud.Disc. 2016), *aff'd*, 173 A.3d 1176 (Pa. 2017), citing *In re Toczydlowski*, 853 A.2d 20 (Pa.Ct.Jud.Disc 2004); *In re***

Deming, 736 P.2d 639 (Wa. 1987). The ten factors and their application to this case are as follows:

1. Whether the misconduct is an isolated instance or evidenced a pattern of conduct: The misconduct at issue here went on for many years.

2. The nature, extent, and frequency of occurrence of the acts of misconduct: The misconduct by Former Judge Lowry was extensive.

3. Whether the conduct occurred in or out of the courtroom: The conduct occurred both inside and outside the courtroom.

4. Whether the misconduct occurred in the judge's official capacity: The misconduct at issue here was committed in Former Judge Lowry's capacity as a judge.

5. Whether the judge acknowledged or recognized that the acts occurred: Former Judge Lowry fought against his conviction and disciplinary violations at every step.

6. Whether the judge has evidenced an effort to change or modify her conduct: No contrition has been expressed by Former Judge Lowry.

7. The length of service on the bench: Former Judge Lowry served as a Judge for seven years.

8. Whether there have been prior complaints about the judge: This Court received no prior complaints about Former Judge Lowry.

9. The effect the misconduct has upon the integrity of and respect for the judiciary: Former Judge Lowry brought considerable disrepute upon the judiciary by his improper conduct.

10. The extent to which the judge exploited his or her position to satisfy personal desires: Former Judge Lowry committed perjury to avoid the circumstances of his participation in this corrupt enterprise.

Discussion

Former Judge Lowry's improper conduct was discussed at length in the Opinion and Order of June 29, 2020. Although Former Judge Lowry was not the originator of the corrupt practices of his Court, his conduct is inexcusable.

In similar Traffic Court cases the former judges were removed and barred from further service. *In re Tynes*, No. 7 JD 15; *In re Mulgrew*, No. 6 JD 12 and *In re Sullivan*, No. 9 JD 15, all involve Traffic Court judges who were also sanctioned with removal and barred from further judicial service.

As pointed out by Judicial Conduct Board Counsel at the Sanction Hearing this Court has removed and barred from future service all the prior fifteen judges convicted of felonies who have appeared before it in its history.

Former Judge Lowry's participation in a corrupt scheme followed by his perjury calls for the most severe sanction. The Court realizes that the sanction imposed is harsh, but the penalty meets the conduct engaged in by Former Judge Lowry – namely corruption of our system of justice and the maxim that underlies it “ . . . (E)very man, whatever be his rank or condition, is subject to the ordinary law of the realm . . .” Dicey AV, Introduction to The Study of The Law Of The Constitution, MacMillian and Co Ltd (9th ed. 1945) at 193.

Accordingly, Former Traffic Judge Michael Lowry is removed from office and barred from future judicial service.

- * Judge McCaffery recuses from this case.
- * Judge Tilghman did not participate in this case.