

COMMONWEALTH OF PENNSYLVANIA
COURT OF JUDICIAL DISCIPLINE

IN RE: :
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 :
 Andrew T. LeFever, Esq. :
 Magisterial District Judge : No. 7 JD 20
 Magisterial District Court 02-2-04 :
 Lancaster County :

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 John H. Foradoro, J.¹

OPINION BY JUDGE McCAFFERY

FILED: February 14, 2022

OPINION AND ORDER

On November 9, 2020, a Complaint was filed against Magisterial District Judge Andrew T. LeFever (Respondent) by the Judicial Conduct Board. The Complaint alleges, in part, that Respondent had improperly served as an officer in a political party after he had publically announced he was running for magisterial district judge in violation of Canon 4. Respondent argues that two court decisions justify his conduct but this Court applies the unambiguous language of the Rules involved, which clearly prohibit his actions.

The parties agreed to extensive Stipulations covering most of the factual issues. A hearing was held on September 14, 2021, followed by the filing of Proposed Findings of Fact and Conclusions of Law and Briefs by both parties.

The Court of Judicial Discipline makes the following Findings of Fact.

Findings of Fact

1. Article V, § 18 of the Constitution of the Commonwealth of Pennsylvania grants to the Board the authority to determine whether

¹ This case was heard by a panel which included Judge Foradora, whose term has since ended. Judge Foradora participates in this Opinion and Order pursuant to Article V, §18(b)(2) of the Constitution of Pennsylvania.

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. (Joint Stipulations of Fact 1).

2. From January 2, 2020, to the present, Respondent has served continuously as a Magisterial District Judge in Magisterial District 02-2-04, Lancaster County, Pennsylvania. (Joint Stipulations of Fact 2).
3. Based on a Confidential Request for Investigation at Judicial Conduct Board File No. 2019-669, the Board investigated the instant matter. (Joint Stipulations of Fact 3).
4. 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 was probable cause to file formal charges against Respondent in this Court. (Joint Stipulations of Fact 4).
5. Respondent is a licensed attorney in the Commonwealth of Pennsylvania. (Notes of Trial (N.T.), September 14, 2021, at 64:2-6, 98:11-15).
6. On July 12, 2018, Lancaster County Democratic Committee Chairperson, JoAnn Hentz, appointed Respondent to fill the vacant position of Committee Person in the Lancaster City Democratic Committee (LCDC) to represent the City of Lancaster's 5th Precinct of the 6th Ward. (Joint Stipulations of Fact 5).
7. The website at www.lancastercitydemocrats.com is the official website of the LCDC. (Joint Stipulations of Fact 6).
8. The LCDC website at www.lancastercitydemocrats.com/about states:

Democratic Committee members are your friends, your colleagues, and your neighbors.

These elected officials promote our most sacred civic duties: voting and being involved in our government. They work to inform their neighbors about upcoming elections, provide information about candidates and issues, and represent the Democratic Party at their polling place on election days.

Committee People are elected by registered Democrats from the voting district (precinct) where they live for terms of four years. Vacancies may be filled by appointment by the Chair of the Lancaster County Democratic Committee.

(Joint Stipulations of Fact 7, Board Trial Exhibit 3).

9. The LCDC website at www.lancastercitydemocrats.com/about states that the LCDC's "mission is to build a strong Democratic community, to recruit and elect strong Democratic candidates, and to advance the principles of the Democratic Party within the City of Lancaster, Pennsylvania." (Joint Stipulations of Fact 8, Board Trial Exhibit 4).
10. The "Terminology" section of the Rules Governing Standards of Conduct of Magisterial District Judges (Rules) defines "political organization" as being:

A political party or group sponsored by or affiliated with a political party or candidate, the principal purpose of which is to further the election or appointment of candidates for political office, excluding a judicial candidate's campaign committee created as authorized by these Conduct Rules.

Rules, Terminology.

(Joint Stipulations of Fact 9).

11. On January 27, 2019, Respondent posted a message on the public Facebook page titled "Andrew LeFever for Magisterial District Judge" stating:

Hello Facebook community! I'm honored to formally announce my candidacy for Magisterial District Judge. Why

am I running? Because the people of Lancaster are owed a fair, impartial justice system. The role of the District Judge is to be an arbiter and protector of the citizens and their rights. Based upon my years of experience in the criminal justice system as a practicing attorney, I believe I am well-suited to serve in that role. Thank you for your support!

(Joint Stipulations of Fact 10, Board Trial Exhibit 2).

12. The "Application" section of the Rules states, "Canon 4 applies to all judicial candidates." (Joint Stipulations of Fact 11).
13. The "Terminology" section of the Rules defines "judicial candidate" as being:

Any person, including a sitting magisterial district judge, who is seeking appointment or election to judicial office. A person becomes a candidate for judicial office as soon as he or she makes a public announcement of candidacy, declares or files as a candidate with the appointment or election authority, or where permitted, engages in solicitation or acceptance of contributions or support, or is nominated for appointment or election to office.

Rules, Terminology.

(Joint Stipulations of Fact 12).

14. Canon 4, Rule 4.1(A)(1) of the Rules states the following:

Canon 4, Rule 4.1. Political and Campaign Activities of Magisterial District Judges and Judicial Candidates in General

(A) Except as permitted by Rules 4.2, 4.3, and 4.4, a magisterial district judge or a judicial candidate shall not:

(1) act as a leader in, or hold an office in, a political organization.

(Joint Stipulations of Fact 13).

15. In the process of deciding to seek the office of Magisterial District Judge during 2018 or early 2019, Respondent reviewed the definition of "judicial candidate" in the Rules. (Joint Stipulations of Fact 14).

16. In the process of deciding to seek the office of Magisterial District Judge during 2018 or early 2019, Respondent reviewed the definition of “political organization” in the Rules. (Joint Stipulations of Fact 15).
17. In the process of deciding to seek the office of Magisterial District Judge during 2018 or early 2019, Respondent reviewed Canon 4, Rule 4.1 (A)(1) of the Rules. (Joint Stipulations of Fact 16).
18. Prior to resigning as a Committee Person in the LCDC, Respondent was aware that to comply with Rule 4.1(A)(1) of the Rules, he could not be a judicial candidate and a committee person at the same time. (N.T., September 14, 2021, at 74:3-15; Board Trial Exhibit 16).
19. In the process of deciding to seek the office of Magisterial District Judge during 2018 or early 2019, Respondent reviewed the case of *In re Nomination Petition of Denick*, 729 A.2d 168 (Pa. Cmwlth. 1999), when deciding when he had to resign as Committee Person in the LCDC to comply with the Rules. (Joint Stipulations of Fact 17).
20. When Respondent reviewed *Denick*, he was aware that the case involved a challenge to an individual’s nominating petitions under the Election Code. (N.T., September 14, 2021, at 103:12-104:2).
21. In the process of deciding to seek the office of Magisterial District Judge during 2018 or early 2019, Respondent reviewed the case of *McMenamin v. Tartaglione*, 590 A.2d 802 (Pa. Cmwlth. 1991), when deciding when he had to resign as Committee Person in the LCDC to comply with the Rules. (Joint Stipulations of Fact 18).

22. When Respondent reviewed *Tartaglione*, he was aware that the case involved a challenge to an individual's nominating petitions under the Election Code. (N.T., September 14, 2021, at 108:23-109:2).
23. A reason for Respondent's research into when he would become a candidate was because he was involved in a "contentious primary" and he wanted to be in compliance. (N.T., September 14, 2021, at 110:15-114:4).
24. As of September 14, 2021, Respondent believed that a "candidate for an office is someone who's on the ballot for that position." (N.T., September 14, 2021, at 153:23-154:3).
25. As of September 14, 2021, Respondent believed that he wasn't a candidate when he publicly announced his candidacy on his campaign Facebook page on January 27, 2019 because, "I didn't know if I was going to be on the ballot or not to be a candidate." (N.T., September 14, 2021, at 156:3-9).
26. In the process of deciding to seek the office of Magisterial District Judge during 2018 or early 2019, Respondent reviewed the Rule's proscriptions and prescriptions on the campaign activities of judicial candidates, including Rule 4.2(A)(1). (N.T., September 14, 2021, at 102:3-16).
27. On January 27, 2019 and until March 11, 2019, Respondent served as a Committee Person in the LCDC for the City of Lancaster's 5th Precinct in the 6th Ward. (Joint Stipulations of Fact 19).
28. Respondent's public Facebook page "Andrew LeFever for Magisterial District Judge" was routinely updated with posts concerning his

campaign activities from January 27, 2019 through March 12, 2019. (Joint Stipulations of Fact 20, Board Trial Exhibit 2).

29. Respondent and his campaign associates updated his campaign Facebook page with posts concerning his campaign activities from January 27, 2019 through March 12, 2019. (N.T., September 14, 2021, at 75:5-13; Board Trial Exhibit 2).
30. D.J. Ramsey, an LCDC Committee Person for Ward 4, Precinct 1, made posts concerning Respondent's campaign activities on Respondent's campaign Facebook page. (N.T., September 14, 2021, at 115:12-117:11; Board Trial Exhibit 5).
31. Lauren Edgell, LCDC Northeast Quadrant Director and Respondent's campaign manager, made posts concerning Respondent's campaign activities on Respondent's campaign Facebook page. (N.T., September 14, 2021, at 117:13-17, Board Trial Exhibit 5).
32. Magisterial District 02-2-04 exists within the northeast quadrant of Lancaster City. (N.T., September 14, 2021, at 114:18-115:7; Board Trial Exhibit 5).
33. Respondent was aware of everything being posted on his public campaign Facebook page. (N.T., September 14, 2021, at 122:4-13).
34. On February 11, 2019, Respondent participated in a public LCDC meeting as a Committee Person for the City of Lancaster's 5th Precinct in the 6th Ward, the purpose of which was to determine which judicial and non-judicial candidates the LCDC would officially endorse for the 2019 municipal election. (Joint Stipulations of Fact 21, Board Trial Exhibit 5).

35. At the February 11, 2019 LCDC meeting, Committee Persons representing the 2nd and 6th Wards of the City of Lancaster met to vote on their endorsement for the office of Magisterial District Judge in Magisterial District 02-2-04. (Joint Stipulations of Fact 22).
36. Prior to the endorsement vote, Respondent was interviewed by the LCDC Endorsement Committee. (N.T., September 14, 2021, at 133:23-134:18).
37. Jamie Arroyo, an individual seeking the LCDC endorsement for a position on Lancaster City Council, was on the LCDC Endorsement Committee that interviewed Respondent prior to the LCDC endorsement vote. (N.T., September 14, 2021, at 133:23-134:4).
38. Lauren Edgell, LCDC Northeast Quadrant Director and Respondent's campaign manager, was on the LCDC Endorsement Committee that interviewed Respondent prior to the LCDC endorsement vote. (N.T., September 14, 2021, at 134:5-11).
39. Prior to the endorsement vote, Respondent made a stump speech to other LCDC Committee Persons about why they should vote for him to receive the LCDC endorsement for the position of Magisterial District Judge. (N.T., September 14, 2021, at 134:25-135:7).
40. At the February 11, 2019 LCDC meeting, Respondent, as a Committee Person, voted for the LCDC to endorse him for the office of Magisterial District Judge in Magisterial District 02-2-04. (Joint Stipulations of Fact 23; (N.T., September 14, 2021, at 82:21-83:4).
41. Respondent voted for the LCDC to endorse him for the office of Magisterial District Judge in Magisterial District 02-2-04 in the

presence of Sharon Watson Frias, an opposing candidate for the office of Magisterial District Judge in Magisterial District 02-2-04, who was also seeking the endorsement of the LCDC. (Joint Stipulations of Fact 24; Board Trial Exhibit 5).

42. On February 11, 2019, after a unanimous vote, Respondent received the endorsement of the LCDC for the office of Magisterial District Judge in Magisterial District 02-2-04. (Joint Stipulations of Fact 25).
43. On February 12, 2019, LNP (Lancaster Newspapers) published an article reporting LCDC's February 11, 2019 endorsement of Respondent for the office of Magisterial District Judge. (Joint Stipulations of Fact 26, Board Trial Exhibit 6).
44. On February 12, 2019, Respondent or one of his campaign surrogates made a post on his campaign Facebook page "Andrew LeFever for Magisterial District Judge" stating,

I am proud to announce that last evening, I received the unanimous endorsement of the northeast quadrant of the Lancaster City Democratic Committee for the position of Magisterial District Judge. As the only endorsed candidate for this position, I am thrilled to have the support of so many great, hardworking individuals, Now the real work can begin!

(Board Trial Exhibit 2, 08:30 – 08:34)

45. On February 28, 2019, a post on Respondent's campaign Facebook page stated that Respondent was with Amanda Bakay, Jaime Arroyo, and Xavier Garcia-Molina, all Democratic candidates for Lancaster City Council, at their petition signing event. (Board Trial Exhibit 2, 08:04 – 08:06)

46. On February 11, 2019, Respondent established his campaign committee, LANCASTER FOR LEFEVER. (Joint Stipulations of Fact 27).
47. On January 5, 2019, prior to the establishment of his campaign committee LANCASTER FOR LEFEVER, Respondent made an expenditure for a logo design for his campaign for the office of Magisterial District Judge. (Joint Stipulations of Fact 28; Board Trial Exhibit 11, at 22).
48. On January 22, 2019, prior to the establishment of his campaign committee LANCASTER FOR LEFEVER, Respondent made an expenditure for photographs for his campaign for the office of Magisterial District Judge. (Joint Stipulations of Fact 29; Board Trial Exhibit 11, at 22).
49. On February 21, 2019, LANCASTER FOR LEFEVER classified Respondent's January 22, 2019 expenditure for photographs as an in-kind contribution. (Joint Stipulations of Fact 30; Board Trial Exhibit 11, at 39).
50. On February 13, 2019, Respondent made a \$100 contribution to his campaign committee. (Joint Stipulations of Fact 31; Board Trial Exhibit 11, at 34).
51. On February 13, 2019, LANCASTER FOR LEFEVER deposited \$100 in its account at Fulton Bank. (Joint Stipulations of Fact 32).
52. On February 13, 2019, LANCASTER FOR LEFEVER made an expenditure at Fulton Bank for checks. (Joint Stipulations of Fact 33; Board Trial Exhibit 11, at 40).

53. On February 17, 2019, Respondent made an expenditure for campaign buttons for his campaign for the office of Magisterial District Judge. (Joint Stipulations of Fact 34; Board Trial Exhibit 11, at 22).
54. On February 21, 2019, LANCASTER FOR LEFEVER classified Respondent's February 17, 2019 expenditure for campaign buttons as an in-kind contribution. (Joint Stipulations of Fact 35; Board Trial Exhibit 11, at 39).
55. On February 23, 2019, LANCASTER FOR LEFEVER received a monetary contribution. (Joint Stipulations of Fact 36; Board Trial Exhibit 11, at 34).
56. On February 23, 2019, LANCASTER FOR LEFEVER received an in-kind contribution for campaign event invitations. (Joint Stipulations of Fact 37; Board Trial Exhibit 11, at 3).
57. On February 28, 2019, LANCASTER FOR LEFEVER received a monetary contribution. (Joint Stipulations of Fact 38; Board Trial Exhibit 11, at 34).
58. On March 1, 2019, after the establishment of his campaign committee LANCASTER FOR LEFEVER, Respondent made an expenditure for campaign literature on behalf of his campaign for the office of Magisterial District Judge. (Joint Stipulations of Fact 39; Board Trial Exhibit 11, at 22).
59. On March 6, 2019, LANCASTER FOR LEFEVER made an expenditure at Molly's Pub for a campaign event. (Joint Stipulations of Fact 40; Board Trial Exhibit 11, at 40).

60. On March 7, 2019, LANCASTER FOR LEFEVER received three monetary contributions. (Joint Stipulations of Fact 41 (stating two contributions received); Board Trial Exhibit 11, at 34 (showing three contributions received)).
61. On March 10, 2019, LANCASTER FOR LEFEVER received a monetary contribution. (Joint Stipulations of Fact 42; Board Trial Exhibit 11, at 35).
62. On February 23, 2019, Respondent received the endorsement of the Lancaster County Democratic Committee for the office of Magisterial District Judge in Magisterial District 02-2-04. (Joint Stipulations of Fact 43).
63. From February 23, 2019, through March 11, 2019, Respondent and his circulators solicited electors in the City of Lancaster's 2nd and 6th Wards for placement of their signatures on his Democratic and Republican nominating petitions for the office of Magisterial District Judge in Magisterial District Court 02-2-04. (Joint Stipulations of Fact 44; Board Trial Exhibits 9 & 10).
64. From February 23, 2019, through March 11, 2019, Respondent and his circulators accepted the signatures of electors in the City of Lancaster's 2nd and 6th Wards on his Democratic and Republican nominating petitions for the office of Magisterial District Judge in Magisterial District Court 02-2-04. (Joint Stipulations of Fact 45; Board Trial Exhibits 9 & 10).

65. Among the individuals soliciting electors and accepting the signatures of electors on Respondent's Democratic nominating petitions between February 23, 2019, and March 11, 2019, were:

- a. Phillip Cabassa, an LCDC Committee Person in the 6th Ward;
- b. Theresa Flavin, an LCDC Committee Person in the 6th Ward;
- c. David Parry, an LCDC Committee Person in the 2nd Ward;
- d. Jaime Arroyo, an LCDC endorsed candidate for Lancaster City Council;
- e. Linda Esbenshade, an LCDC Committee Person in the 6th Ward;
- f. Michael Gaines, an LCDC Committee Person in the 6th Ward;
- g. Lillie West, an LCDC Committee Person in the 6th Ward;
- h. Steven Garner, an LCDC Committee Person in the 6th Ward;
- i. Lauren Edgell, an LCDC Committee Person in the 6th Ward and Respondent's campaign manager; and
- j. Carl Feldman, an LCDC Committee Person in the 6th Ward.

(Joint Stipulations of Fact 46; Board Trial Exhibits 9 & 10).

66. On March 10, 2019, Respondent, under oath, signed and had notarized Candidate's Affidavits for the Democratic and Republican nominating petitions circulated in the City of Lancaster's 2nd and 6th Wards from February 23, 2019, through March 10, 2019, stating that

he is eligible to hold the office of Magisterial District Judge in Magisterial District 02-2-04. (Joint Stipulations of Fact 47; Board Trial Exhibit 9, at 2; Board Trial Exhibit 10, at 4).

67. Respondent did not circulate nominating petition of non-judicial candidates for public office because he knew that being a Magisterial District Judge is supposed to be non-political position. (N.T., September 14, 2021, at 138:19-24).
68. On March 5, 2019, a post on Respondent's campaign Facebook page announced that he will be appearing with Lancaster City Council candidates Jaime Arroyo, Amanda Bakay, and Xavier Garcia-Molina at Molly's Pub and Carry Out on March 6, 2019, to "talk about our vision for the Northeast." (Board Trial Exhibit 2, at 07:59).
69. On March 6, 2019, Respondent participated in a campaign event at Molly's Pub and Carry Out. (Joint Stipulations of Fact 48; Board Trial Exhibit 2, at 07:52 - 07:56).
70. Other persons seeking nomination for non-judicial office in the City of Lancaster participated in the campaign event at Molly's Pub and Carry Out on March 6, 2019. (Joint Stipulations of Fact 49).
71. Xavier Garcia-Molina, Democratic candidate for Lancaster City Council, spoke at the campaign event at Molly's Pub and Carry Out on March 6, 2019. (N.T., September 14, 2021, at 123:16-25 (referencing Board Trial Exhibit 2)).
72. Amanda Bakay, an LCDC endorsed Democratic candidate for Lancaster City Council and an LCDC Committee Person for Ward 8, Precinct 9 spoke at the campaign event at Molly's Pub and Carry Out

- on March 6, 2019. (N.T., September 14, 2021, at 123:16-25 (referencing Board Trial Exhibit 2); Board Exhibit 5).
73. The campaign event at Molly's Pub and Carry Out on March 6, 2019, was broadcast live on Respondent's campaign Facebook page, "Andrew LeFever for Magisterial District Judge". (N.T., September 14, 2021, at 124:6-125:3; Board Trial Exhibit 2, at 07:52 - 07:56).
74. On March 11, 2019, Respondent participated in a public LCDC meeting as a Committee Person for the City of Lancaster's 5th Precinct in the 6th Ward. (Joint Stipulations of Fact 50, Board Trial Exhibit 7).
75. At the end of the March 11, 2019, LCDC meeting, Respondent resigned his position as a Committee Person on the LCDC via letter provided to LCDC Chair Diane Topakian. (Joint Stipulations of Fact 51, Board Trial Exhibit 8).
76. Prior to deciding when to resign from the LCDC to comply with Rule 4.1(a)(1), Respondent did not get an advisory opinion from the Ethics and Professionalism Committee of the Special Courts Judges Association of Pennsylvania regarding that issue. (N.T., September 14, 2021, at 146:18-147:4).
77. Canon 4, Rule 4.2(B)(3) states: A judicial candidate may publicly speak on behalf of, or publicly oppose or speak in opposition to, candidates for the same judicial office for which he or she is a judicial candidate, or publicly endorse or speak on behalf of candidates for any other elective judicial office appearing on the same ballot as the magisterial district judge candidate. (Joint Stipulations of Fact 52).

78. Canon 4, Rule 4.2(B)(4) states: A judicial candidate may attend or purchase tickets for dinners or other events sponsored by a political organization or a candidate for non-judicial public office. (Joint Stipulations of Fact 53).
79. Canon 4, Rule 4.2(B)(5) states: A judicial candidate may seek, accept, or use endorsements from any person or organization, including a political organization or political party. (Joint Stipulations of Fact 54).
80. Canon 4, Rule 4.2(B)(6) states: A judicial candidate may contribute to a political organization, including a political party or candidate for non-judicial public office. (Joint Stipulations of Fact 55).
81. Canon 4, Rule 4.2(B)(7) states: A judicial candidate may identify himself or herself as a member or candidate of a political organization or party. (Joint Stipulations of Fact 56).
82. On March 12, 2019, Respondent filed his Republican and Democratic nominating petitions with the Lancaster County Board of Elections. (Joint Stipulations of Fact 57, Board Trial Exhibits 9 & 10).
83. On March 19, 2019, an opponent of Respondent, John Kenneff (Kenneff), filed two petitions challenging the Respondent's Democratic and Republican nominating petitions. (Board Trial Exhibits 12, 13 & 14).
84. On March 21, 2019, Respondent and John Kenneff appeared before Lancaster County Court of Common Pleas President Judge Dennis Reinaker for a hearing on Kenneff's petitions. (Board Trial Exhibits 12, 13 & 15).

85. Prior to proceeding with a hearing on the petitions, Respondent and Kenneff agreed that the only matter before President Judge Reinaker was whether Respondent was a LCDC Committee Person when he became a candidate for the office of Magisterial District Judge. (Board Trial Exhibit 15, at 2:18-22).
86. Prior to proceeding with a hearing on the petitions, Respondent and Kenneff stipulated that Respondent's nomination petitions were filed on March 12, 2019. (Board Trial Exhibit 15, at 2:23-24).
87. Prior to proceeding with a hearing on the petitions, Respondent and Kenneff stipulated that Respondent resigned from the LCDC on March 11, 2019. (Board Trial Exhibit 15, at 2:18-3:2).
88. Prior to proceeding with a hearing on the petitions, Respondent and Kenneff stipulated that sometime before March 11, 2019, Respondent formed a campaign committee for the purpose of soliciting campaign contributions. (Board Trial Exhibit 15, at 2:9-18).
89. Prior to proceeding with a hearing on the petitions, Kenneff withdrew his remaining arguments and averments made within his petitions. (Board Trial Exhibit 15, at 3:23-4:1).
90. Neither Respondent nor Kenneff presented additional evidence to President Judge Reinaker at the proceeding on March 21, 2019. (Board Trial Exhibit 15).
91. On March 21, 2019, President Judge Reinaker ruled that Respondent became a candidate for the office of Magisterial District Judge when he filed his nominating petitions on March 12, 2019. (Board Trial Exhibit 15, at 4:2-8).

92. After ruling that Respondent became a candidate for the office of Magisterial District Judge when he filed his nominating petitions on March 12, 2019, President Judge Reinaker dismissed Kenneff's petitions. (Board Trial Exhibit 15, at 4:8-11).
93. On March 21, 2019, LNP published an article reporting President Judge Reinaker's ruling that Respondent became a candidate when he filed his nominating petitions. (Board Trial Exhibit 16).
94. The LNP article published on March 21, 2019, reported that, after the proceeding before President Judge Reinaker, Respondent stated that he was aware that he could not be on the committee while a candidate for magisterial district judge, which is why he resigned when he did. (Board Trial Exhibit 16).
95. The LNP article published on March 21, 2019, reported that, after the proceeding before President Judge Reinaker, Respondent stated, "It's important that we have judges who understand the law and what's at stake for people in the community." (N.T., September 14, 2021, at 146:2-17; Board Trial Exhibit 16).
96. On May 21, 2019, Respondent won the Democratic primary election for the position of Magisterial District Judge in Magisterial District 02-2-04. (Joint Stipulations of Fact 58).
97. On November 5, 2019, Respondent won the municipal election for the office of Magisterial District Judge in Magisterial District 02-2-04. (Joint Stipulations of Fact 59).
98. Respondent began his term as Magisterial District Judge in Magisterial District 02-2-04 on January 2, 2020. (Joint Stipulations of Fact 60).

99. At his March 12, 2020, deposition before Board counsel, Respondent testified that, as a LCDC Committee Person at the February 11, 2019, public LCDC meeting, he believed that he voted for the LCDC to endorse the five candidates for school director. (Additional Joint Stipulations of Fact 61).
100. At his March 12, 2020, deposition before Board counsel, Respondent testified that, as a LCDC Committee Person at the February 11, 2019, public LCDC meeting, he voted for the LCDC to endorse candidates for Lancaster City Council. (Additional Joint Stipulations of Fact 62).
101. Lauren Edgell was present at the February 11, 2019, public LCDC meeting, and she would testify that Respondent did not vote to endorse candidates for either school director or Lancaster City Council. (Additional Joint Stipulations of Fact 63).
102. Alan Silverman was present at the February 11, 2019, public LCDC meeting, and he would testify that he does not remember if Respondent voted to endorse a candidate for either school director or Lancaster City Council. (Additional Joint Stipulations of Fact 64).
103. Lauren Slessor was present at the February 11, 2019, public LCDC meeting, and she would testify that she cannot recall whether Respondent voted to endorse candidates for either school director or Lancaster City Council. (Additional Joint Stipulations of Fact 65).

Discussion

Canon 4, Rule 4.1(A)(1) Respondent Acting As a Leader in a Political Organization

In Count 1 of the Complaint, Respondent is accused of a violation of Canon 4, Rule 4.1(A)(1) of the Rules Governing Standards of Conduct of Magisterial District Judges which states:

Canon 4, Rule 4.1. Political and Campaign Activities of Magisterial District Judges and Judicial Candidates in General.

- (A) Except as permitted by Rules 4.2, 4.3, and 4.4, a judicial candidate shall not:
 - (1) Act as leader in, or hold an office in, a political organization.

The Rules Governing Standards of Conduct of Magisterial District Judge define a “judicial candidate” as being:

Any person, including a sitting magisterial district judge, who is seeking appointment or election to judicial office. A person becomes a candidate for judicial office as soon as he or she makes a public announcement of candidacy, declares or files as a candidate with the appointment or election authority, or where permitted, engages in solicitation or acceptance contributions or support, or is nominated for appointment or election to office.

After a thorough review of the record and applicable law this Court finds by clear and convincing evidence that Respondent violated Canon 4, Rule 4.1.

On January 27, 2019, Respondent announced his candidacy for the position of Magisterial District Judge on his public campaign Facebook page entitled “Andrew LeFever for Magisterial District Judge.” Respondent prepared for his campaign announcement by making personal campaign expenditures for a campaign logo design on January 5, 2019, and for campaign photographs on January 22, 2019. On February 21, 2019, Respondent’s campaign committee,

LANCASTER FOR LEFEVER, classified his expenditure for photographs as an in-kind campaign contribution.

When he made his announcement of candidacy, Respondent was serving as a Committee Person in the LCDC representing the City of Lancaster's 5th Precinct of the 6th Ward.

LCDC Committee Persons are elected by registered Democrats or are appointed to the position by the Lancaster County Democratic Committee Chairperson. Lancaster County Democratic Committee Chairperson, JoAnn Hentz, appointed Respondent to the position on July 12, 2018. Respondent continued serving as a Committee Person in the LCDC until his resignation on March 11, 2019.

In addition to his public announcement of his candidacy on January 27, 2019, Respondent, his campaign surrogates, and LANCASTER FOR LEFEVER engaged in campaign activities between January 27, 2019, and March 11, 2019, which furthered his status as a candidate for the office of Magisterial District Judge. These activities include:

1. Respondent seeking and receiving the endorsement of the LCDC for the position of Magisterial District Judge,
2. establishing his campaign committee LANCASTER FOR LEFEVER,
3. making monetary and in-kind contributions to his campaign committee,
4. receiving the endorsement of the Lancaster County Democratic Committee,
5. soliciting for signatures on his Democratic and Republican nominating petitions; and,

6. participating in a campaign event at Molly's Pub and Carry Out on March 6, 2019.

Respondent became a judicial candidate, as defined in the Rules, when he announced his candidacy for the position of magisterial district judge on January 27, 2019. Respondent's in-kind contributions to LANCASTER FOR LEFEVER, and his solicitation and acceptance of electors' support in the form of signatures on his nominating petitions, add to his status as a judicial candidate as does his acceptance of campaign contributions.

Respondent was a judicial candidate at the same time he was also a Committee Person in the LCDC. The LCDC is a "political organization" as defined in the Rules.² Under the Terminology section in the Rules, a political organization is "a . . . group . . . affiliated with a political party . . . , the principal purpose of which is to further the election or appointment of candidates for political office[.]"

Respondent violated Rule 4.1(A)(1) when he held the office of Committee Person for the City of Lancaster's 5th Precinct for the 6th Ward, in a political organization, at the same time he was a judicial candidate from January 27, 2019, through his resignation from the LCDC on March 11, 2019. There are no exceptions present in Rules 4.2, 4.3, and 4.4 that permitted Respondent's conduct. Comment [3] of the Rule states:

Public confidence in the independence and impartiality of the judiciary is eroded if judges or judicial candidates are perceived to be subject to political influence. Although magisterial district judges and judicial candidates may register to vote as members

² At trial on September 14, 2021, Respondent testified that he believed that the LCDC is a political organization as defined in the Rules. (N.T., September 14, 2021, at 73:13-23).

of a political party, they are prohibited by paragraph (A)(1) from assuming leadership roles in political organizations.

Rule 4.1(A)(1)'s limit on the degree to which a judicial candidate can be associated with a political organization is made to protect the interests of the judiciary and a judicial candidate's right to be involved in political activity during the elective process. While Rule 4.2(B)(7) permits judicial candidates to "identify himself or herself as a member or candidate of a political organization," such as the LCDC, it is clear that a judicial candidate may not be a leader, or holding office in, a political organization. Respondent has violated Rule 4.1(A)(1) by clear and convincing evidence.

Situations Where One is a Judicial Candidate and Barred from Political Activity

To summarize, one becomes a judicial candidate when he or she does any of the following:

1. Makes a public announcement of candidacy (any public announcement suffices. The Rules make no exception for the small size of the audience) or;
2. Declares or files as a candidate, or;
3. Engages in solicitation or acceptance of contributions or support (again no limit on the small size or scope of the activity), or;
4. Is nominated for appointment or election to office.

An announcement of one's candidacy or a request for support makes one a judicial candidate.

Canon 4, Rule 4.1(A)(3)
Respondent Endorsing Other Candidates

In Count 2, Respondent is accused of a violation of Canon 4, Rule 4.1(A)(3) which states:

Canon 4, Rule 4.1, Political and Campaign Activities of Magisterial District Judges and Judicial Candidate in General.

(A) Except as permitted by Rules 4.2, 4.3, and 4.4, a magisterial district judge or a judicial candidate shall not:

. . .

(3) Publicly endorse or publicly oppose a candidate for any public office.

Canon 4, Rule 4.1(A)(3) prohibits “judicial candidates” from “publicly endors[ing] . . . a candidate for any public office.”

On February 11, 2019, when Respondent was a judicial candidate for the office of Magisterial District Judge, he participated in a public LCDC meeting as a Committee Person for the City of Lancaster’s 5th Precinct in the 6th Ward. At the meeting, LCDC Committee Persons voted on candidate endorsements for the offices of Lancaster City Counsel, and School Director.

On March 12, 2020, Respondent provided testimony before Judicial Conduct Board’s Counsel concerning his conduct at the February 11, 2019, public LCDC meeting. At his deposition, Respondent testified that he voted for the LCDC to endorse the five candidates for School Director. In addition, Respondent testified that he voted for the LCDC to endorse sanction for Lancaster City Council.

Despite Respondent's testimony at his March 12, 2020, deposition Respondent's subsequent Answer to the Board Complaint walked back his deposition testimony without specifically stating that he did not vote for the LCDC to endorse the non-judicial candidates for public office. In paragraph 11 of his Answer to Judicial Conduct Board Complaint, Respondent asserts that "[u]pon further reflection, he is now not sure of the accuracy of [his deposition testimony]." At trial, Respondent did not deny that he voted for the LCDC to endorse School Director or Lancaster City Council candidates.

Instead, while acknowledging that he previously testified under oath that he did make those votes, Respondent testified at trial that he has "no independent recollection of casting those votes," and does not remember *if* he voted for those candidates or not. (N.T., September 14, 2021, at 77:18-80:13).

Respondent admits, and has testified that he was present for, and participated in, the February 11, 2019, public LCDC meeting as a Committee Person for the City of Lancaster's 5th Precinct in the 6th Ward. Respondent also admits that he voted for the LCDC to endorse him for the office of Magisterial District Judge in Magisterial District 02-2-04.

It was stipulated that if Lauren Edgell, Respondent's campaign manager, was called to testify at trial, she would have testified that Respondent was present at the February 11, 2019, public LCDC meeting and did not vote to endorse candidates for either School Director or Lancaster City Council. In view of the totality of the evidence the Court is not convinced beyond the clear and convincing evidence standard that Respondent cast votes to endorse other candidates as alleged.

Canon 4, Rule 4.2(A)(1)
Respondent to Act with Impartiality

In Count 3, Respondent is accused of violations of Canon 4, Rule 4.2(A)(1) which states:

Canon 4, Rule 4.2, *Political and Campaign Activities of Judicial Candidates in Public Elections.*

(A) A judicial candidate in a public election shall:

(1) act at all times in a manner consistent with the independence, integrity, and impartiality of the judiciary.

Respondent violated Rule 4.2(A)(1) when, as a Committee Person in the LCDC, he participated in the LCDC's endorsement meeting on February 11, 2019, and voted for the LCDC to endorse him for the position of Magisterial District Judge in Magisterial District 02-2-04.

By seeking judicial office, a judicial candidate is voluntarily obligated to refrain from engaging in conduct that could cause the public to question the judicial candidate's independence, integrity, and impartiality. As a judicial candidate, Respondent was obligated to act in the best interests of the judiciary. Respondent's use of his position in the LCDC for his personal benefit as a judicial candidate is incompatible with the values of independence, integrity, and impartiality he was obligated to uphold.

Under Rule 4.2(A)(1), judicial candidates are held to the same standard as elected judges in that they must refrain from engaging in conduct that compromises public perception of the judiciary (Rule 1.2., *Promoting Confidence in the Judiciary*). Respondent's act of self-interest designed to benefit his judicial campaign is an example as to why Rule 4.1(A)(1)'s prohibition on judicial candidates holding office in political organizations exists. Had Respondent

complied with Rule 4.1(A)(1) and resigned his office as Committee Person in the LCDC prior to announcing his campaign, the additional violation of Rule 4.2(A)(1) would not have occurred.

Respondent used his position as Committee Person in the LCDC to help secure its endorsement of himself over an opposing candidate for Magisterial District Judge in Magisterial District 02-2-04. Respondent's vote for his own nomination violated his duty of impartiality.

Respondent violated Rule 4.2(A)(1) by clear and convincing evidence.

Respondent's Reliance Upon the Denick and Tartaglione Cases is Misplaced.

Respondent did not obtain an advisory opinion regarding this issue from the Ethics and Professionalism Committee of the Special Courts Judges Association of Pennsylvania or from experienced ethics counsel.

Respondent argues that he was not a judicial candidate until he filed his nominating petitions based on what he subjectively believed. In support of his reasoning Respondent cites two cases discussing when an individual becomes a candidate; *In re Nomination Petition of Denick*, 729 A.2d 168 (Pa.Cmwlt. 1999), and *McMenamin v. Tartaglione*, 590 A.2d 802 (Pa.Cmwlt. 1991). Both *Denick and Tartaglione* predate Rules 4.1 and 4.2 and the definition of "judicial candidate" by the Supreme Court in 2014. Additionally, neither case involves any relevant action by the judicial candidate other than the filing of the nominating petition.

In *Denick*, the Commonwealth Court upheld a trial court's decision finding that Denick was a candidate when he filed his nominating petitions for the position of Magisterial District Judge with the County Board of Elections. 729

A.2d at 170. When announcing this conclusion, the Court referenced the section of *Tartaglione* citing the Pennsylvania Supreme Court's opinion in *Mayer v. Hemphill*, 190 A.2d 444 (Pa.1963) that an individual "becomes a candidate if he or she has filed nomination papers *or* publicly announced his [or her] candidacy for office." *Id.*; *Tartaglione*, 590 A.2d at 810 (emphasis added). As a public announcement of candidacy would necessarily predate the filing of nominating petitions, and no facts were before the Court to suggest Denick made a prefiling announcement of candidacy, the *Denick* Court looked back at Denick's conduct and concluded that Denick became a candidate "at the very least" when he filed his nominating petitions.

The Court in *Tartaglione*, which Respondent also reviewed prior to announcing his candidacy on January 27, 2019, considered whether the "pre-filing activities" of a candidate constituted a public announcement of candidacy under *Mayer*. 590 A.2d at 810. Upon review, *Tartaglione* upheld the trial court's finding that the individual whose candidacy was in question did not make a public announcement of his candidacy prior to filing his nominating petitions. *Id.* Since there was insufficient evidence to find that the individual became a candidate via a public announcement of candidacy, the "legally significant date" to determine when the individual became a candidate when considering the challenge to his nominating petitions under the Election Code was, per *Mayer*, the date he filed his nominating petitions. *Id.*

A review of *Denick* and *Tartaglione* makes clear that a public announcement of candidacy is only one of the actions one could take to be considered a candidate under the Election Code.

By explicitly stating that an individual becomes a judicial candidate when he or she makes a public announcement of candidacy, the Court codified that aspect of its earlier decision in *Mayer v. Hemphill*, as accurately described in *Tartaglione*. However, the Court also went further than it did in *Mayer* when dictating the parameters of when an individual becomes a judicial candidate. Unlike in *Mayer*, the Court, through its inherent power to promulgate the Rules, declared that an individual can also become a *judicial* candidate when he or she “engages in solicitation or acceptance of contributions or support.”

Unfortunately, Respondent did not seek an advisory opinion regarding these issues from the Ethics and Professionalism Committee of the Special Courts Judges Association or from experienced ethics counsel.

Respondent’s reliance on factually inapplicable cases which have been made even less relevant by a clear Supreme Court rule in 2014 provides no support for his position.

Respondent Violated Rules 4.1(A)(1) and 4.2(A)(1)

When Respondent announced his candidacy via Facebook on January 27, 2019, he was aware of the facts that made his conduct improper. Respondent knew he was publicly seeking nomination and election to judicial office. He was also aware that he was a Committee Person in the LCDC when he made the public announcement of candidacy. Respondent should have been aware of the Rules’ prohibition on judicial candidates holding office in political organizations, and that an individual becomes a judicial candidate when he or she makes a public announcement of candidacy or when he or she solicits or accepts support for his or her campaign.

Respondent violated the ethical Rules when he chose to hold office as a Committee Person within the LCDC at the same time he publicly announced his candidacy for Magisterial District Judge. His violations continued when Respondent publicly engaged in various forms of campaign and political activities, including his vote for himself to receive the LCDC endorsement, the acceptance of campaign contributions and the solicitation and acceptance of elector's signatures on his nominating petitions up until his resignation from the LCDC on March 11, 2019. Rules 4.1 and 4.2 prohibit Respondent's actions. The language of the Rules is plain and was clearly violated.

Conclusions of Law

1. Respondent is subject to the jurisdiction and authority of the Court of Judicial Discipline for the acts set forth in the Complaint;

2. Respondent was not sufficiently proven to have committed a violation of Canon 4, Rule 4.1(A)(3) of the Rules Governing Standards of Conduct of Magisterial District Judges;

3. Respondent committed a violation of Canon 4, Rule 4.2(A)(1) of the Rules Governing Standards of Conduct of Magisterial District Judges; and,

4. Respondent committed a violation of Canon 4, Rule 4.1(A)(1) of the Rules Governing Standards of Conduct of Magisterial District Judges.

The parties may file objections within ten days.