

COMMONWEALTH OF MASSACHUSETTS
COMMISSION ON JUDICIAL CONDUCT

IN THE MATTER OF JUDGE ALLEN J. JARASITIS
COMPLAINT NO. 96-4

FORMAL CHARGES

The Commission On Judicial Conduct hereby notifies the Honorable Allen J. Jarasitis ("Judge Jarasitis"), Associate Justice of the District Court Department, Charlestown Division, that it has found sufficient cause to issue Formal Charges in the above-captioned matter. This notice is given under the provisions of G.L. c. 211C, §5(14) and Commission Rule 7. Judge Jarasitis may exercise his right to file a response within ten (10) days after service of these Charges.

FIRST CHARGE

The Commission charges that Judge Allen J. Jarasitis violated Supreme Judicial Court Rule 3:09, Canon 1, which obligates a judge to "observe high standards of conduct so that the integrity and independence of the judiciary may be preserved"; Canon 2A which obligates a judge to "respect and comply with the law and ...conduct himself at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary"; and DR7-110(B)(1) which prohibits any communication "as to the merits of the cause with a judge... except in the course of official proceedings in the cause." Judge Jarasitis violated these rules of conduct as set forth below.

1) On November 29, 1995, Judge Jarasitis telephoned Judge Anthony P. Sullivan ("Judge Sullivan"), Circuit Justice of Region II of the District Court Department, the judge assigned to hear cases in the Charlestown District Court on December 1, 1995. During that conversation, Judge Jarasitis made improper statements to Judge Sullivan concerning a summary process action (Gaddy v. O'Neill, 9504-CV-0084) pending in the Charlestown District Court and scheduled for December 1, 1995. The plaintiff-landlord filed this action seeking to evict the defendant-tenant from Unit 2 at 299-301-303 Main Street in Charlestown on the grounds of non-payment of rent.

A) After exchanging pleasantries about the Thanksgiving holiday, Judge Jarasitis directed the conversation to the pending Gaddy v. O'Neill summary process action.

B) Judge Jarasitis stated that he was a trustee of the condominium association for the building where the tenant lived. He also stated that he owned two of the units in the building at 299-301-303 Main Street in Charlestown.

C) Judge Jarasitis stated that he wanted to appear at the trial on December 1, 1995 to testify on behalf of the landlord and the other tenants in the building. He explained the call by telling Judge Sullivan that he was not sure he could make it to the court that day.

D) Judge Jarasitis told Judge Sullivan that the tenant's conduct was so disruptive that it created problems for the other tenants in the building.

1. Judge Jarasitis described the tenant as a "Section 8" tenant who engaged in drug activity at the building with her boyfriend. He stated that he had summoned the police to the building on several occasions because of the drug activity.

2. Judge Jarasitis reported that the tenant's boyfriend was charged with a serious criminal offense in the Middlesex Superior Court.

3. Judge Jarasitis expressed his concern that Julie O'Neill's behavior would affect his tenants in the building.

E) The statements made by Judge Jarasitis were irrelevant to the Summary Process action.

2) Judge Jarasitis had an economic interest in the disposition of the case.

A) In November, 1995, at the time of the communication to Judge Sullivan, Judge Jarasitis owned two of the condominium units at 299-301-303 Main Street in Charlestown. He rented these units to a law firm and to a chiropractor.

B) The tenant's behavior was seriously disruptive to the quiet enjoyment of all the occupants of the building, including Judge Jarasitis' tenants.

C) Judge Jarasitis was aware of the threat to his tenant's quiet enjoyment of the premises. He feared the loss of his tenants.

3) Judge Jarasitis intended to influence the disposition of the case by his statements to Judge Sullivan.

A) Judge Jarasitis persisted in providing information to Judge Sullivan even after Judge Sullivan's unambiguous statement that he wished no further discussion of the matter.

B) Judge Jarasitis informed Judge Sullivan of his personal and economic interest in the matter.

SECOND CHARGE

The Commission charges that Judge Jarasitis violated Supreme Judicial Court Rule 3:09, Canon 2(B). Canon 2(B) obligates a judge to avoid impropriety or even the appearance of impropriety in all his activities and expressly provides that a judge "should not testify voluntarily as a character witness" in a judicial proceeding.

More particularly, the Commission charges as follows:

1) In November, 1995, Judge Jarasitis telephoned Carl Toumayan, the attorney who represented Joy Gaddy, the owner of a condominium unit in the building at 299-301-303 Main Street in Charlestown. Judge Jarasitis formerly owned all the units in the building. In November 1995, he owned the two commercial units on the first floor of the building. During the conversation, Judge Jarasitis informed Attorney Toumayan that he was available to testify as a witness in the summary process matter which was subsequently filed in the Charlestown District Court.

2) On December 1, 1995, Judge Jarasitis appeared at the Charlestown District Court to testify in the matter. He awaited the call of the list in his chambers. While doing so, he

summoned Attorney Toumayan to his chambers and again offered to appear as a witness in the matter.

3) When Judge Jarasitis made his offer to appear as a witness in the summary process proceeding, he was aware that the tenant was being evicted for non-payment of rent.

4) Judge Jarasitis had no personal knowledge of whether the tenant had in fact failed to pay her rent.

5) Judge Jarasitis' proposed testimony related to the alleged conduct of the tenant and her boyfriend. This testimony was neither material nor relevant to the issue of the tenant's non-payment of rent.

COMMISSION ON JUDICIAL CONDUCT



HARRY DANIELS, Chairperson

August 30, 1996

Date