



The Commonwealth of Massachusetts

COMMISSION ON JUDICIAL CONDUCT

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PRESS RELEASE

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DISTRICT COURT JUDGE ALLEN J. JARASITIS DISCIPLINED
BY COMMISSION ON JUDICIAL CONDUCT

BOSTON, MA (October 31, 1996) - Following an investigation, the Commission on Judicial Conduct has reprimanded and suspended for two months without pay Judge Allen J. Jarasitis of the District Court Department, Charlestown Division, of the Trial Court of Massachusetts. The charges against Judge Jarasitis alleged that he engaged in misconduct by communicating *ex parte* with another judge sitting in the Charlestown District Court on a case involving Judge Jarasitis' own interests and by volunteering to appear as a character witness. The Supreme Judicial Court appointed Geraldine S. Hines, Esq. as Special Counsel to the Commission to pursue this matter.

In a conversation that Judge Jarasitis initiated two days before the Charlestown District Court case was scheduled to be tried on December 1, 1995, Judge Jarasitis telephoned the judge scheduled to hear the case, giving the judge information about the case and the parties involved, with the intent of influencing the disposition of the case. Judge Jarasitis persisted in

providing information to the other judge even after that judge's unambiguous statement that he wished no further discussion of the matter. The other judge reported the improper communication, as he was required to do by Canon 3(B)(3)(b) of the Code of Judicial Conduct.

In November of 1995, Judge Jarasitis telephoned an attorney in the case to inform him that he was available to testify as a witness. On December 1, 1995, the day the trial was scheduled, Judge Jarasitis called the attorney into his chambers to offer again to appear as a witness in the matter.

Judge Jarasitis and the Commission have entered into a written agreement in which the judge has admitted that he made an improper *ex parte* communication with another judge in a case involving his own self-interest, in violation of 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"; Canon 1 of the Code of Judicial Conduct which obligates a judge to "observe high standards of conduct so that the integrity and independence of the judiciary may be preserved"; and 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." Judge Jarasitis has also admitted that he communicated with an attorney on two occasions to inform him that he was available to testify as a witness in the proceeding. This offer to appear as a witness violates Canon

2(B) which 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."

The judge has agreed to a private reprimand to be made public, a two-month suspension without pay, the assignment of a mentor judge and training at the Flaschner Institute. He has waived his right to confidentiality with regard to the Formal Charges and the terms of the agreement.

A minority of the Commissioners believe that, in light of the Supreme Judicial Court's opinion, In the Matter of Francis X. Orfanello, 411 Mass. 551 (1992), the appropriate disposition of a case in which a judge attempted to influence another judge through an *ex parte* communication would be a suspension of at least three months. The Supreme Judicial Court in Orfanello imposed a three-month suspension on an attorney who attempted to influence a judge through an *ex parte* communication. In justifying this sanction, the court left no doubt of the serious nature of such conduct.

Any attempt to tamper with a judicial disposition constitutes a vicious attack on the dispensation of even-handed justice. It does not matter whether the interference comes from a member of the bar, another judge, an elected or appointed official, or from a member of the general public. It does not matter whether it involves a traffic ticket, a probate

disposition, or a felony. Id., at 557.

It is the view of the minority that, as a practicing attorney for twenty-two years and a judge for five years, Judge Jarasitis was at least as culpable in his conduct as Attorney Orfanello and that his conduct warrants a suspension for at least three months.

One member of the majority believes that this two-month suspension without pay is substantial as compared to the suspension imposed upon the attorney in Orfanello who the member believes was not practicing law at the time of the suspension.

Without condoning *ex parte* communication in any form, another member of the majority distinguished the leading SJC decision in that Judge Jarasitis never attempted to be secretive, and in fact openly offered to appear as a witness. He also offered in the alternative to file an affidavit with the Court setting forth his testimony regarding a tenancy in the condominium complex of which he was a trustee.

Attached is a copy of the Formal Charges.

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