

APPENDIX L

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Commission on
Judicial Conduct

COMMONWEALTH OF MASSACHUSETTS

SUPREME JUDICIAL COURT

SUFFOLK, ss.

Case No. OE-143

IN RE: PAUL M. SUSHCHYK

ORDER

The Commission on Judicial Conduct (Commission) has filed with the court formal charges alleging that Judge Paul M. Sushchyk (Judge), Associate Justice of the Probate and Family Court Department, engaged in willful judicial misconduct and conduct prejudicial to the administration of justice and unbecoming of a judicial officer by inappropriately touching a court employee without her consent. The Commission filed a motion to impound the name of the employee until such time as she testifies at a public hearing in this matter, along with a supporting affidavit from the Commission's counsel, but not from the employee. The Judge filed a cross-motion requesting that the formal proceedings against him be wholly impounded or, in the alternative, that the names of both the Judge and the employee be impounded. The cross-motion included an affidavit from the Judge's counsel, but not from the Judge himself. The Clerk impounded this matter pending resolution of the parties' motions.

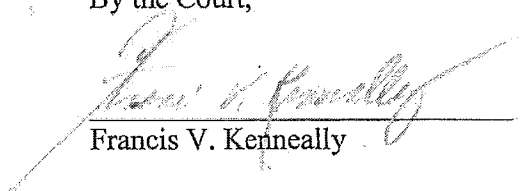
On February 27, 2020, the court denied without prejudice the Commission's motion to impound the employee's name, but permitted the Commission to submit for the court's consideration an affidavit from the employee herself in support of the motion. The Commission has advised the court that it does not intend to file such an affidavit. The Commission's motion, therefore, is now DENIED WITH PREJUDICE.

By the same February 27, 2020, Order, the court denied the Judge's request to impound his name. The court also denied without prejudice his request to impound the formal proceedings as a whole, and permitted the Judge to submit for the court's consideration an affidavit identifying with specificity any information, apart from the Judge's name, in which the Judge may have a legitimate privacy interest, such as personal medical information and other personal information. The Judge has now submitted an affidavit requesting that the court "impound the nature of the proceedings" against him. In his affidavit, he denied the allegations against him, and asserted that, should the matter be made public, he and his family will suffer reputational harm and his effectiveness as a judge will be compromised.

Upon consideration of the Judge's submissions, the court finds that the Judge has failed to demonstrate that there exists good cause for impoundment, in accordance with Rule 1:15 of the Rules of the Supreme Judicial Court. The Judge's generalized fears of reputational harm if this matter is made public do not constitute good cause for impoundment. *See George W. Prescott Publ. Co. v. Register of Probate for Norfolk County*, 395 Mass. 274, 279 (1985) (potential for embarrassment or fear of "unjustified adverse publicity" not sufficient to show good cause for impoundment). The Judge has not shown or alleged any particularized or unique harm to him that would result from public disclosure of this matter. Nor has he identified specific information, such as personal medical information referenced in the filings in this matter, in which he claims a legitimate privacy interest. It is therefore ORDERED that the Judge's cross-motion to impound is DENIED WITH PREJUDICE.

Upon entry of this Order, this matter shall no longer be impounded and the materials previously filed herein shall be available for public inspection, in accordance with G.L. c. 211C, § 6, and Rule 5(B)(4) of the Rules of the Commission on Judicial Conduct.

By the Court,


Francis V. Kenneally

Entered: March 5, 2020