

TABLE OF CONTENTS

I. INTRODUCTION.....3

II. COUNTERSTATEMENT FACTS.....4

 A. New Matters Raised In Judge Adrine’s Affidavit at Paragraph 30.....4

III. LAW AND ARGUMENT.....5

 A. Respondent does not pose a substantial threat of serious harm to the public, a required showing under Gov. Bar R. V(5a)5

IV. FACTS..... 11

V. CONCLUSION.....11

CERTIFICATE OF SERVICE..... 13

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I. INTRODUCTION

Relator has sought the extraordinary remedy of an interim remedial suspension seven months after he amended the original complaint filed in October 2013 against Respondent. Apparently satisfied with the grievant's conduct in connection with Civil cases, as was Administrative and Presiding Judge of the Cleveland Municipal Court, Ronald B. Adrine, who removed Judge Stokes from the criminal draw and transferred all criminal cases which had been assigned to her personal docket to others in the Court, including himself, this motion is now made by Relator because this Honorable Court had granted an Alternative Writ of Prohibition in connection with such Administrative Orders of Judge Adrine. Because this remedy has not been sought until now, and because apparently Relator was satisfied with Judge Stokes' handling of her civil docket and Session 1 responsibilities assigned to her by Judge Adrine (all civil matters) after he removed her from presiding over any criminal matters,¹ Relator's assertions ring hollow and should not be given credence now by this Honorable Court.

In this regard, for the reasons which follow, Respondent asserts that the interests of justice do not warrant either an immediate interim remedial suspension or an interim remedial suspension at all. Respondent's conduct has not caused serious public harm nor does it pose a substantial additional and continuing threat of serious harm to the public and the administration of justice. As such, Relator's instant motion should be denied and Respondent should be permitted to retain her license to practice law and the office of judge to which she has been elected until Relator's claims of misconduct have been tried beginning in February 2015 and concluding in June 2015, and necessary proceedings thereafter have been completed.

¹ Despite alleging in Count Seven of the Complaint that Relator believes "Respondent may be suffering from a mental illness . . ." Complaint, para. 243.

II. COUNTERSTATEMENT OF FACTS

Relator in his memorandum in support² structures the background facts into essentially three subsections, Section 1: Summary of Misconduct, Section 2: Specific Examples of Misconduct and Section 3: Attempts to Address Respondent's Misconduct. For the sake of clarity and to respond to specific allegations to the extent possible since the limited time allotted, Respondent does not provide a comment about the Summary of Misconduct section other than to say that to the extent the generalities apply to specifics that are set forth set forth in Section 2, they are addressed in Respondent's Affidavit. In this regard, much of Relator's Complaint refers to general matters which are impossible to address. However, to the extent that specific examples are set forth in the context of Relator's instant motion, they are addressed herein and/or in Respondent's Affidavit supported by exhibits thereto.

A. New Matters Raised in Judge Adrine's Affidavit at Paragraph 30

Relator raises as "examples of respondent's misconduct" examples set forth in the First Amended Complaint attached as Exhibit 5 and then goes on to assert that he will introduce "numerous other examples of respondent's misconduct, which are not detailed in the Amended Complaint, but that follow the general pattern of conduct alleged in the complaint, i.e. rude and demeaning conduct, abuse of court resources, etc." Besides this being totally inappropriate in the context of a disciplinary hearing, *i.e.* to raise at a hearing, without specific notice prior thereto, instances of alleged misconduct, since Relator has brought to light in Judge Adrine's Affidavit at para. 30 specific instances, they are addressed in Respondent's Affidavit.

² Hereinafter, references to the Memorandum in Support of Relator's Motion for Immediate Interim Remedial Suspension under Gov. Bar R. V(5a) shall be cited as "Relator's Memo at _____."

III. LAW AND ARGUMENT

- A. Respondent does not pose a substantial threat of serious harm to the public, a required showing under Gov. Bar R. V(5a)

Relator’s sole legal authority to warrant the extreme measure of an interim remedial suspension under Gov. Bar R V(5a) is the citation to Disciplinary Counsel v. O’Neill, 103 Ohio St. 3d 204, 2004-Ohio-4704, 815 N.E 2d 286. After quoting Paragraph 38 of that Opinion, Relator concludes that former Judge O’Neill was suspended from the practice of law because of “several findings of judicial misconduct, including a pattern of rude and discourteous treatment of Court staff, attorneys, law enforcement officers and other individuals.” This overly simplistic conclusion, when measured against the facts of O’Neill, including the aggravating circumstances which lead to a two-year suspension with one year stayed on certain conditions, shows its inapplicability to the issue presently before this Court, i.e., whether an immediate interim suspension ought to be ordered.

In this regard, Count 1 of the O’Neill Complaint asserted a variety of “cohesive tactics to expedite dispositions in criminal cases. . .” Respondent is not guilty of any such conduct. Further, Judge O’Neill failed to follow an Appellate Court mandate, something else Judge Stokes did not do. Judge O’Neill engaged in improper *ex parte* communications which Judge Stokes never did. Judge O’Neill interfered in a Defendant’s plea deal by attempting to prevail on the Prosecutor, another instance of misconduct not applicable to Judge Stokes. In Count 1 three other examples of Judge O’Neill’s failure to comply with the law were found to have occurred, not a subject of the complaint against Judge Stokes.

Here, much of the criticism of Respondent involves what others have characterized as inappropriate conditions of probation leading to the disproportionate use of Court resources including those of the Probation Department and certain funds to monitor the behavior of those

admittedly involved in alcohol and substance abuse. However, it is perfectly within Respondent's discretion to impose conditions in matters where substance abuse plays a role. See State v. Jones, 49 Ohio St.3d 51, 550 N.E. 2d 469 (1990) (In a case involving a condition of probation which limited the probationers' contact with anyone under the age of 18 in a matter where he was convicted on multiple counts of contributing to the unruliness or delinquency of a minor. The Court explained that the trial court has discretion under Ohio Revised Code § 2951.02 (C) "in the interests of doing justice, rehabilitating the offender, and ensuring his good behavior: to impose additional requirements as conditions of probation. "Further, interpreting this phrase the court held that "courts should consider whether the condition (1) is reasonably related to rehabilitating the offender, (2) has some relationship to the crime of which the offender was convicted, and (3) relates to conduct which is criminal or reasonably related to future criminality and serves the statutory ends of probation.") See also State v. Maynard, 47 Ohio App. 3d 76, 547 N.E.2d 409 (6th Dist. 1988).

Count 4 of the O'Neill Complaint asserted a pattern of dishonest behavior by Judge O'Neill with Judges, litigants, attorneys and court personnel. No dishonest behavior has been asserted against Judge Stokes in this matter nor, whether asserted or not, has it occurred. It was the multiple misrepresentations which represented "the most serious charges" brought against Judge O'Neill. O'Neill, *supra* at para. 26.

Only Count 5 of the O'Neill Complaint involved actions of Judge O'Neill characterized as "unbecoming, unprofessional, and discourteous . . .," which are allegations brought by Relator in the instant matter.

Count 6 of the O'Neill Complaint involved misconduct relative to soliciting and receiving campaign fund contributions both through herself and her staff, of which Judge O'Neill was found guilty. Again, these are not charges brought against Judge Stokes.

Thus, it was against this backdrop of multiple violations of the Code of Judicial Conduct, most of which are not being charged against Judge Stokes that resulted in this Honorable Court's determination that Judge O'Neill should be suspended at all. This Court also noted that there were aggravating circumstances which involved justifying such a suspension such as a selfish motive and false statements made in the course of the Disciplinary process, including a pattern of misrepresentations. See O'Neill supra, paras. 48 and 51-52. As noted by this Honorable Court, it was "Respondent's pervasive conduct of misrepresentation. . . [which] by itself warrants an actual suspension from the practice of law for an appropriate period of time." O'Neill, supra at para 52. As concluded by this Court, an actual suspension " . . . merely reinforces what should already be manifest: Judges should not engage in conduct involving dishonesty, fraud, deceit, or misrepresentation." Id. As such, it was the component of dishonesty in the O'Neill matter which clearly resulted in the actual suspension in that case, not the pattern of intemperate behavior which was the substance of Count 5 of the O'Neill Complaint.

Importantly, the findings of this Honorable Court in O'Neill were against a backdrop of a complete hearing on the merits over nineteen days which theretofore had been unprecedented in the history of the Board of Commissioners.

Addressing another argument made by Relator in support of his Motion, the instant matter, there is certainly no reason for this Court to conclude that there is a "substantial threat of serious harm to the public" as Gov. Bar R. V(5a) requires, because of a probable cause determination in respect to the filing of the Complaint. Of course, no such review occurred in

respect to Count 8 of the Amended Complaint or any of the cases commented on by Judge Adrine at para. 30 of his Affidavit. Further, if it were the case that a probable cause determination justified an interim remedial suspension, every single matter certified by a Probable Cause Panel of the Board of Commissioners would result in an interim remedial suspension. This absurd result belies such contention. Thus, citing the Probable Cause determination in regard to this matter is of absolutely no moment in a determination of whether Relator has met the burden imposed upon him under Gov. Bar R. V(5a).

Further, it is clear that Judge Adrine and Judge Stokes differ significantly in their approach to disposing of criminal matters on their dockets which could very well explain Judge Adrine's hyper-critical statements made in his Affidavit which is largely the only evidence produced by Relator in connection with meeting his burden under Gov. Bar R. V(5a).

In this regard, as Judge Stokes' Affidavit demonstrates, Judge Adrine does not consider the facts and circumstances of particular cases in detail, if at all, to the extent Judge Stokes does. In the Lewandowski matter, at the final hearing without the Defendant present and with Public Defender Rini present who had not been the Public Defender during the course of the proceedings before Judge Stokes, Judge Adrine terminated probation without determining whether either of the two victims had received restitution, a condition of probation Judge Stokes had imposed, and also a condition with which Public Defender Hurley was in agreement, and the other conditions of probation imposed by Judge Stokes were not addressed While Relator almost solely relies upon Judge Adrine's Affidavit to support his request that Judge Stokes be suspended, Judge Adrine himself unfairly characterizes the new cases mentioned in paragraph 30 of his Affidavit including the Reidenbach matter. While he indicates that she was found guilty of petty theft he then mentions that the probationary period required weekly urinalysis and

alcohol assessments even though alcohol was not implicated in the offenses. What he fails to address and which was evident in the transcript of the proceedings before him is that she and her attorney admitted in open court that the reason for the petty theft was that she was a heroin addict (she had indicated to Judge Stokes that she was a cocaine addict.) This an egregious misstatement of the Reidenbach matter which demonstrates why Judge Stokes should be provided a complete hearing rather than a summary disposition of a request to have her license suspended based upon a characterization of someone who failed to do the necessary research to fully explain the matter to this Court. In this Reidenbach matter Judge Adrine himself questioned Ms. Reidenbach about her addiction and she volunteered that indeed the reason for the underlying offense was because of her heroin addiction. See Stokes Affidavit at .

Further, that Judge Stokes judicial philosophy concerning sentencing differs from Judge Adrine's is meaningless as to whether ethics violations exist. As this Court pointed out in O'Neill, "even an abuse of discretion is not necessarily tantamount to a violation of the Code of Judicial Conduct." O'Neill, *supra* at p. 22.

Most importantly, Disciplinary Counsel has premised his need to file this motion **at this time**, with the Complaint having been filed back in October 2013 and the Amended Complaint having been filed in April 2014, on the allegation that substantial harm to the public is likely to occur *now*, only if "Respondent is permitted to resume presiding over criminal cases." See Relator's Memo at 12. Relator had speculated in the instant motion that "it appears that Respondent's criminal docket might soon be restored." This Honorable Court's Order of November 19, 2014 dismissing Respondent's Writ of Prohibition concerning the restoration of her criminal docket dispels such speculation.

Even Judge Adrine in his Affidavit, with much of which Judge Stokes takes issue in the evidence³ she has provided this Honorable Court, agrees that he has:

seen major improvement in morale and productivity across all platforms at the Court since criminal caseload responsibilities were temporarily transferred from Judge Stokes, pending the outcome of this Disciplinary Complaint against her.

Affidavit of Judge Adrine, para. 36

Since Judge Stokes' criminal docket was temporarily transferred, no additional complaints have been levied against Judge Stokes' (sic) arising from the disposition of her civil case load except one incident in which it was reported that she sought to have a civil litigant evaluated by the Court's Psychiatric Clinic.

Affidavit Judge Adrine, para. 32

More importantly, managers of all Court Departments have reported to me that morale and productivity have increased since the removal of Judge Stokes from criminal case responsibility.

Affidavit of Judge Adrine, para. 33

Thus, if anything, the evidence supplied by Relator in his Motion for Interim Remedial Suspension shows that given the current circumstances, Judge Stokes alleged conduct preceding her removal from criminal docket responsibilities in no way poses a substantial threat of serious harm to the public.

As such, it is respectfully submitted that Relator has not demonstrated through substantial, credible evidence the necessary criteria to impose an interim remedial suspension upon Respondent.

IV. FACTS

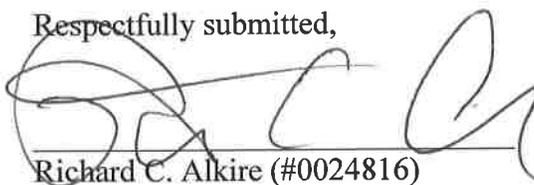
³ Judge Stokes' evidence is comprised of her Affidavit and exhibits, which she has provided as rebuttal evidence pursuant to Gov. Bar R. 5a (A)(2). Insufficient time has been provided Judge Stokes to rebut each specific incident outlined by Relator in Relator's Memo at pp. 5-8, especially because new matters were raised by Judge Adrine in his Affidavit.

Judge Stoke and its exhibits are incorporated herein by reference. The new matters raised by Judge Adrine required an extensive effort on the part of Judge Stokes to research all of the cases and to provide an accurate response to this Honorable Court. See Respondent's Motion to Permit Response to Relator's Motion for an Immediate Interim Remedial Suspension Under Gov. Bar R. V(5a) by November 14, 2014. Judge Stokes attaches to her Affidavit summaries of the cases, the new matters to the extent she was able given the limited time within which she was permitted to respond. She has attached for this Court's consideration all of the data underlying each of the cases which substantiates her decisions in connection with sentencing and probation conditions imposed in those new matters.

V. CONCLUSION

Accordingly, for the foregoing reasons and those expressed in and supported by the Affidavit of Angela R. Stokes and the exhibits thereto, Respondent respectfully requests this Honorable Court to deny Relator's Motion for Immediate Interim Remedial Suspension Under Gov. Bar R. V(5a) and permit this matter to proceed to the days of hearing scheduled between February and June, 2015.

Respectfully submitted,



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CERTIFICATE OF SERVICE

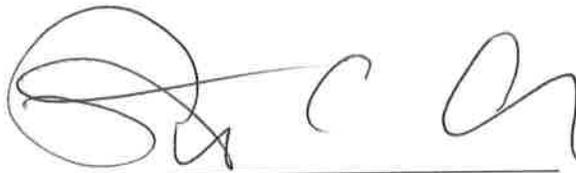
A copy of the foregoing **RESPONDENT'S MEMORANDUM IN OPPOSITION TO RELATOR'S MOTION FOR AN IMMEDIATE INTERIM REMEDIAL SUSPENSION UNDER GOV. BAR R. V(5a) WITH AFFIDAVIT OF THE HONORABLE ANGELA R. STOKES AND ITS EXHIBITS ATTACHED** has been filed via e-filing with the Supreme Court of Ohio and a service copy e-mailed this 24th day of November, 2014 to:

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