

FILED

JUN 20 2017

A.C.J.C.

Joseph P. La Sala, Esq. (#268241972)
William F. O'Connor, Jr., Esq. (#033491999)
McELROY, DEUTSCH, MULVANEY & CARPENTER, LLP
1300 Mount Kemble Avenue
P.O. Box 2075
Morristown, New Jersey 07962-2075
Tel.: (973) 993-8100
Attorneys for Respondent, Carolyn E. Wright, J.S.C.

IN THE MATTER OF

CAROLYN E. WRIGHT
JUDGE OF THE SUPERIOR COURT

SUPREME COURT OF NEW JERSEY
ADVISORY COMMITTEE ON
JUDICIAL CONDUCT
DOCKET NO. ACJC 2016-377

Civil Action

**VERIFIED ANSWER TO
COMPLAINT, SEPARATE
DEFENSES, MITIGATING FACTORS
AND DESIGNATION OF TRIAL
COUNSEL**

Respondent, Carolyn E. Wright, J.S.C. ("Respondent"), by way of Verified Answer to the New Jersey Supreme Court Advisory Committee on Judicial Conduct's ("Complainant"), hereby states:

FIRST DEFENSE TO PARAGRAPHS TITLED "FACTS"

1. The allegations of Paragraph 1 thereof are admitted.
2. The allegations of Paragraph 2 thereof are admitted.
3. The allegations of Paragraph 3 thereof are admitted. In addition, and by way of background, on August 5, 2016, Benjamin Hayes ("Hayes"), a family friend that Respondent did not see very often, stopped by Respondent's Chambers. Hayes was a student of Respondent's mother when she taught him in pre-school some years ago. Hayes indicated that he was in the building to seek temporary custody of his grandson

and that he had consent of the child's parents. He explained that his son, the child's father, was living in Massachusetts with the child's mother. Apparently, at some point earlier in the year, the child's parents brought the child for a visit with his grandparents, Hayes and his wife. Subsequent to that visit, the birth parents contacted Hayes and his wife and advised that they were physically, emotionally and financially unable to care for the child and the parents therefore requested that the grandparents assist them by allowing the child to reside with them.

Hayes and his wife agreed. Hayes advised that he had come to Court on August 5, 2016, because the child had been ill and that they had taken him to the emergency room either the night before or within the last few days. He further indicated that the child needed to see a pediatrician for immediate follow-up.

Respondent further learned during their discussion that Hayes, who is employed by the Department of Corrections, wanted to add the child to his insurance plan so that he could properly care for the child. Hayes has other children and was concerned about the uncovered emergency room bill and other medical expenses that might follow. Hayes told Respondent that he had gone to the Intake Unit and been given paperwork to complete. However, he did not understand the paperwork. This discussion occurred at approximately 1:00 p.m. on August 5 and Respondent had just completed her calendar and was going out with her secretary for lunch. Respondent quickly reviewed the forms he was given and concluded that they did not appear to be the right ones for the application Hayes was filing and the relief he was seeking. Respondent told Hayes that because she was on her way out, Respondent would stop with him downstairs to assist him in getting the correct paperwork.

4. The allegations of paragraph 4 thereof are admitted. In addition, when Respondent entered the Intake Unit, she recalls asking a woman seated at a "Sign-In" desk whether Ms. Damaris Alvarado ("Alvarado") was still assigned to the Unit. Respondent knew Alvarado from her prior Non-Dissolution assignment in the Family Part and believed she would be able to point Hayes in the right direction. The woman seated at the desk indicated that Alvarado was not there. At that point Respondent observed Senior Probation Officer Mariela Gabriel ("Gabriel") with a clipboard and ID around her neck in the middle of the room. Hayes and Respondent approached her and Respondent told her she had a "FD" related question. Respondent had not met Gabriel prior to August 5, 2016, and does not recall interacting with her at any time in the past.

5. Answering the allegations of paragraph 5 thereof, Respondent does not recall who advised her that Alvarado was not present at the time and does not recall being advised that Alvarado was no longer supervising the Intake Unit.

6. Answering the allegations of paragraph 6 thereof, the judiciary does provide red lanyards to judges and blue lanyards to all other judiciary employees. The balance of the allegations of paragraph 6 thereof are denied.

7. Answering the allegations of paragraph 7 thereof, Gabriel did not "acknowledge" that she knew that Respondent was a judge. Respondent's position never came up directly or indirectly. Respondent told Gabriel about Hayes's situation and advised her that Respondent thought he had been given the wrong paperwork to complete as the parties had never been in Court before and the change of custody was by agreement.

8. Answering the allegations of paragraph 8 thereof, Respondent admits that she and Hayes walked into the Intake Unit but denies that Garner was at or near the area of the Intake Unit where Hayes, Respondent and Gabriel were talking.

9. Answering the allegations of paragraph 9 thereof, Respondent denies telling Gabriel that Hayes "was her nephew." Respondent told Gabriel that Hayes was "like a nephew" and that Respondent was concerned that he had the wrong paperwork for an emergent application. Hayes handed Gabriel the papers he had been given and as she reviewed them, Hayes told her what he was trying to accomplish. Respondent asked what the most expeditious process would be and Gabriel indicated that Hayes should file an order to show cause. Respondent asked Gabriel who the emergent judge was that day that would handle such an application. Gabriel advised that it was Judge Grimbergen. Gabriel further indicated that she would assist Hayes in completing the paperwork. At that time, Respondent and her secretary left the Intake Unit.

10. The allegations of paragraph 11 thereof are admitted.

11. The allegations of paragraph 12 thereof are admitted.

12. Answering the allegations of paragraph 13 thereof, Respondent admits that after she left the Intake Unit she went to Judge Grimbergen's courtroom. Judge Grimbergen was not on the bench at that time. However, she was about to take the bench. There were no litigants in the courtroom. Respondent admits that she and Judge Grimbergen conversed at that time.

13. Answering the allegations of paragraphs 14-16 thereof, Respondent told Judge Grimbergen that she had a "FD" related question. She advised the Judge that there was a family friend who was seeking emergent custody by order to show cause and

further asked the Judge, "If the parents are in another state, can the matter proceed?" Judge Grimbergen advised that she would normally in such a situation conduct a telephonic hearing. Respondent told Judge Grimbergen that she had done the same thing often when she had handled emergent FD matters but was not sure if the process was still the same.

Respondent further asked Judge Grimbergen how busy her schedule was for the afternoon. She did not ask her if she had time to hear the matter. Judge Grimbergen indicated it had been a busy day and that she was "swamped." Respondent does not recall Judge Grimbergen indicating "she did not have time to hear anything that was not properly before her." Respondent and Judge Grimbergen then talked about how hectic the "Special Other" docket was in general but particularly on Friday afternoons. Respondent told Judge Grimbergen that if she was busy Hayes could come back first thing Monday and start the process earlier in the day.

Respondent denies advising Judge Grimbergen that "her nephew had a matter involving an issue with medical insurance." Instead, she referred to Hayes as "like a nephew."

14. The allegations of paragraph 17 thereof are admitted in part and denied in part. Respondent did not advise Gabriel that Judge Grimbergen did not "see the matter as an emergent issue, and that Hayes should proceed with a regular filing." Instead, Respondent told Gabriel that Judge Grimbergen was "swamped" for the afternoon court session; that Respondent did not want to add to her afternoon burden; and that Hayes could return on Monday and start the process earlier so as not to inconvenience anyone on a busy Friday afternoon. Respondent believed that this would enable Hayes to make

certain that his son and daughter-in-law would be available telephonically or if possible be able to travel to New Jersey in the interim.

15. Answering the allegations of paragraph 18 thereof, Gabriel offered to complete the paperwork with Hayes at her desk. Respondent told Gabriel that this was not necessary and thanked her for her assistance.

16. Answering the allegations of paragraph 19 thereof, Respondent admits that she and Garner departed the courthouse shortly after her communication with Gabriel. Respondent further admits that she did see Alvarado walking on the street and told her that she had looked for her earlier for guidance on the Hayes matter and at that point briefly explained Hayes's situation. Respondent also indicated that in light of the "Special Other" afternoon schedule, she had suggested to Hayes to start the process early on the following Monday so as not to burden anyone, including Judge Grimbergen. Insofar as the Complaint asserts that Respondent asked Alvarado for an earlier Court date or that Alvarado replied that those dates are set by the Judge assigned to hear the matter, those allegations are denied.

17. Answering the allegations of paragraph 20 thereof, Respondent lacks information or recollection sufficient to form a belief as to the truthfulness of same and leaves Complainant to its proofs.

18. Answering the allegations of paragraph 21 thereof, insofar as same are not directed to or against Respondent, Respondent makes no response to same and leaves Complainant to its proofs.

19. Answering the allegations of paragraph 22 thereof, insofar as same are not directed to or against Respondent, Respondent makes no response to same and leaves complainant to its proofs.

20. Answering the allegations of paragraph 23 thereof, insofar as same are not directed to or against Respondent, Respondent makes no response to same and leaves complainant to its proofs.

21. Answering the allegations of paragraph 24 thereof, Respondent admits that Judge Katz telephoned her on the afternoon of August 5, 2016, and requested she meet with him to discuss the matter in question. Respondent further states that she communicated with Judge Katz by telephone and email but does not have a recollection of meeting with Judge Katz during the afternoon of August 5, 2016.

22. Answering the allegations of paragraph 25 thereof, Respondent does not have a recollection of a meeting with Judge Katz on August 5, 2016. Therefore, Respondent leaves Complainant to its proofs.

23. Answering the allegations of paragraph 26 thereof, Respondent admits that Judge Katz recommended in a telephone conversation on August 5, 2016, and in a subsequent email that Respondent review the Judiciary's policy concerning involvement in litigation. Insofar as Respondent does not recall Judge Katz recommending that she complete a Personal or Family Member Involvement in Litigation Report, Respondent leaves Complainant to its proofs.

24. Answering the allegations of paragraph 27 thereof, insofar as same are not directed to or against Respondent, Respondent makes no response to same and leaves complainant to its proofs.

25. Answering the allegations of paragraph 28 thereof, Respondent admits that she met with Judges Floria and Katz on Monday, August 8, 2016, and explained what had occurred on Friday, August 5, 2016. Respondent further admits that she told Judges Floria and Katz that she felt badly that her action would result in a delay for Hayes as she knew a transfer out-of-court would mean a delay in obtaining insurance for the child and potentially more uncovered medical expenses for the grandparents. She apologized repeatedly, explained that her concern for Hayes was the same concern she would have for any litigant, and expressed her deep regret for getting “involved,” since Hayes did not need her help or anyone’s help for that matter to get the result he was seeking.

26. Answering the allegations of paragraph 29 thereof, insofar as same constitute conclusions of law as opposed to allegations of fact, no response is required by Respondent and Respondent leaves Complainant to its proofs. Insofar as the allegations of paragraph 29 thereof contain factual assertions directed to or against Respondent, those allegations are denied.

27. Answering the allegations of paragraph 30 thereof, insofar as same constitute conclusions of law as opposed to allegations of fact, no response is required by Respondent and Respondent leaves Complainant to its proofs. Insofar as the allegations of paragraph 30 thereof contain factual assertions directed to or against Respondent, those allegations are denied.

SEPARATE DEFENSES

FIRST SEPARATE DEFENSE TO ALL COUNTS

The Complaint fails to state a cause for action under the New Jersey Code of Judicial Conduct (“CJC”) against Respondent and Respondent reserves the right to

move at or before the hearing in this matter to dismiss same.

SECOND SEPARATE DEFENSE TO ALL COUNTS

Respondent's conduct did not violate Canon 1, Rule 1.1; Canon 2, Rule 2.1; or Canon 2, Rule 2.3(A) of the Code of Judicial Ethics.

THIRD SEPARATE DEFENSE TO ALL COUNTS

At all times relevant hereto, Respondent personally observed the highest standards of conduct.

FOURTH SEPARATE DEFENSE TO ALL COUNTS

At all times relevant hereto, Respondent acted in the manner that promoted public confidence in the independence, integrity and impartiality of the judiciary and took reasonable efforts to avoid impropriety and the appearance of impropriety.

FIFTH SEPARATE DEFENSE TO ALL COUNTS

At all times relevant hereto, Respondent did not in any way use or attempt to use her position to gain personal advantage or deferential treatment of any kind.

SIXTH SEPARATE DEFENSE TO ALL COUNTS

Any misconduct that may be found is only minor misconduct.

SEVENTH SEPARATE DEFENSE TO ALL COUNTS

Complainant cannot prove the allegations set forth in the Complaint by clear and convincing evidence.

EIGHTH SEPARATE DEFENSE TO ALL COUNTS

Respondent reserves the right to amend her Verified Answer to assert additional separate defenses prior to or at the hearing of this matter.

WHEREFORE, Carolyn E. Wright asserts that discipline in this instance is inappropriate and demands that the Complaint be dismissed.

MITIGATING FACTORS

FIRST MITIGATING FACTOR

Respondent has fully cooperated with the investigation of this matter.

SECOND MITIGATING FACTOR

Respondent has engaged counsel to assist her in this matter.

THIRD MITIGATING FACTOR

Respondent has a good reputation and character.

FOURTH MITIGATING FACTOR

The litigant was not harmed.

FIFTH MITIGATING FACTOR

Respondent has readily admitted her conduct.

SIXTH MITIGATING FACTOR

Respondent has shown contrition and remorse, including in her communications with Judges Floria and Katz and in her interview with the ACJC.

SEVENTH MITIGATING FACTOR

Respondent gives service to the community, including but not limited to volunteering at her church.

EIGHTH MITIGATING FACTOR

Respondent has had exemplary conduct both prior to and since the incident.

NINTH MITIGATING FACTOR

The circumstances show no likelihood of repeat offenses.

TENTH MITIGATING FACTOR

This was an isolated incident.

ELEVENTH MITIGATING FACTOR

Respondent did not in any way act for personal gain.

TWELFTH MITIGATING FACTOR

Respondent volunteers on several judicial and other committees, including the Supreme Court Committee on Judicial Education, the Juvenile Conference Committee of Presiding Judges and Sub-Committees (including the review and update of the Juvenile Court Bench Book); the New Jersey Juvenile Detention Alternative Initiatives (co-chair); and the Youth Services Commission and Sub-Committees (co-chair).

DEMAND FOR HEARING

Respondent, Carolyn E. Wright, hereby requests a hearing on all issues raised in the Complaint.

DEMAND FOR DISCOVERY

Respondent hereby requests the following discovery:

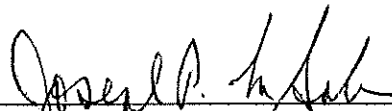
1. All writings as defined by N.J.R.E. 801(e) or other tangible objects including audiotapes, transcripts or those obtained from or belonging to Respondent.
2. Written statements including any memoranda, reporting or summarizing oral statements made by any witness including Respondent.
3. Identity and contact information for fact witnesses and list of all persons who will be called as witnesses.
4. Investigation reports.
5. Identity of expert witnesses and opinions.

6. Any and all documents Complainant intends to rely on at the hearing in this matter or that relate in any way to the allegations of the Complaint.

DESIGNATION OF COUNSEL

Respondent, Carolyn E. Wright, hereby designates Joseph P. La Sala, Esq., as counsel of record in this matter.

MC ELROY, DEUTSCH, MULVANEY & CARPENTER, LLP
Attorneys for Respondent, Carolyn E. Wright, J.S.C.

By: 
Joseph P. La Sala, Esq.
William F. O'Connor, Jr., Esq.

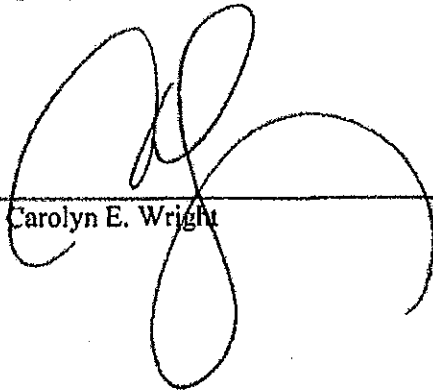
Dated: June 20, 2017

VERIFICATION

I, Carolyn E. Wright, am the Respondent in the within disciplinary action and hereby certify as follows:

1) I have read every paragraph of the foregoing Answer to the Complaint and verify that the statements therein are true and based on my personal knowledge.

2) I am aware that if any of the foregoing statements made by me are willfully false, I am subject to punishment.



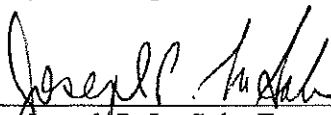
Carolyn E. Wright

Dated: June 20, 2017

CERTIFICATE OF SERVICE

I certify that an original and one copy of the foregoing Verified Answer, Separate Defenses, Mitigating Factors, Demand for Hearing, Demand for Discovery and Designation of Counsel have been filed by Electronic Delivery and Regular Mail with the Advisory Committee on Judicial Conduct on this 20th day of June, 2017.

MC ELROY, DEUTSCH, MULVANEY & CARPENTER, LLP
Attorneys for Respondent, Carolyn E. Wright, J.S.C.

By: 

Joseph P. La Sala, Esq.
William F. O'Connor, Jr., Esq.

Dated: June 20, 2017

#3364102v1