

**STATE OF MICHIGAN
BEFOR THE MICHIGAN JUDICIAL TENURE COMMISSION**

COMPLAINT AGAINST

Hon. J. Cedric Simpson
14-A District Court
415 W. Michigan Avenue
Ypsilanti, Michigan 48202
_____ /

Formal Complaint No. 96

FORMAL COMPLAINT

The Michigan Judicial Tenure Commission (“Commission”) files this complaint against Honorable J. Cedric Simpson (“Respondent”), judge of the 14-A District Court, City of Ypsilanti, County of Washtenaw, State of Michigan. This action is taken pursuant to the authority of the Commission under Article 6, Section 30 of the Michigan Constitution of 1963, as amended, and MCR 9.200 *et seq.* The filing of this complaint has been authorized and directed by resolution of the Commission.

1. Respondent is, and at all material times was, a judge of the 14-A District Court, City of Ypsilanti, County of Washtenaw, State of Michigan.
2. As a Judge, Respondent is subject to all duties and responsibilities imposed on him by the Michigan Supreme Court, and is subject to the standards for discipline set forth in MCR 9.104 and MCR 9.205.

3. During 2013, Respondent was an adjunct professor/instructor at the Ann Arbor, Michigan, campus of Cooley Law School (“Cooley”).

4. Crystal Marie Vargas (“Vargas”) was a student in at least one of Respondent’s courses at Cooley.

5. During 2013, Vargas was also a volunteer/intern at the 14-A District Court (“Court”).

6. During her internship with the Court, Vargas worked exclusively for Respondent and was stationed in Respondent’s chambers.

7. At approximately 4:22 AM on September 8, 2013, Vargas was driving drunk and was involved in a motor vehicle accident at the intersection of Platt Road and Michigan Avenue in Pittsfield Township, Michigan.

8. Pittsfield Township is within the jurisdiction of the 14-A District Court.

COUNT I
INTERFERING WITH THE POLICE INVESTIGATION

9. Immediately after the accident, Vargas used her cell phone to call Respondent on his personal cell phone.

10. While Vargas was speaking with Respondent, Pittsfield Township Police Officer Robert Cole (“Cole”) arrived at the scene.

11. Upon approaching, Cole instructed Vargas to hang up her cell phone.

12. Vargas discontinued her conversation with Respondent at 4:27:08 AM.

13. At 4:28:40 AM, Cole began to administer standard field sobriety tests to Vargas.
14. Respondent arrived at the scene of the accident at 4:30:10 AM.
15. Respondent parked his vehicle approximately 100 feet away from the scene and began to approach Cole and Vargas.
16. When Respondent was approximately 50 feet away, Vargas advised Cole that the person approaching was "Judge Simpson," for whom she was interning.
17. Respondent continued to approach as Cole was administering sobriety tests to Vargas.
18. At a distance of approximately 30 feet from Cole and Vargas, Respondent stopped and requested that Cole approach him.
19. As directed, Cole discontinued Vargas' sobriety tests and approached Respondent.
20. Respondent asked Cole what happened and Cole explained that Vargas had disregarded a flashing red light and was struck by a tow truck belonging to Sakstrup's Towing and Service.
21. Officer Cole advised Respondent that Vargas was unhurt.
22. Despite that information, Respondent continued to approach Vargas.
23. Cole did not prevent Respondent from approaching Vargas because of Respondent's judicial position.

24. During that approach, Cole advised Respondent that he was making sure that Vargas was fit to drive and Respondent inquired, "Well does she just need a ride or something?"

25. Without an answer from Cole, Respondent proceeded to question Vargas about the details of the accident and whether she was all right.

26. Vargas informed Respondent that she was fine.

27. Cole interrupted Respondent's conversation with Vargas by resuming Vargas' sobriety tests.

28. After completing the sobriety tests, Cole administered Preliminary Breath Test (PBT) to Vargas which showed her alcohol level to be at .137.

29. Vargas was arrested, handcuffed, and placed in the back seat of the patrol vehicle.

30. While Vargas was in the back seat of the police vehicle, Respondent requested to speak with her.

31. Respondent told Vargas, among other things:

- a. "Don't worry about it."
- b. "I'm here to help."
- c. "I'll come and get you."

32. At the conclusion of the conversation, Respondent took possession of Vargas's cell phone and vehicle keys and told Vargas to call him.

33. Vargas was transported to the Pittsfield Township Police Department where at 5:28 AM and 5:31 AM two Data-Master tests were administered, showing her alcohol level to be .10.

34. Vargas was thereafter transported to the Washtenaw County Jail.

35. At approximately 8:00 AM on September 8, 2013, Vargas was released from the Washtenaw County Jail.

36. Following her release, Vargas went to Respondent's home at which time Respondent drove her to Sakstrup's Towing and Service to recover her vehicle.

37. At Sakstrup's Towing and Service, Respondent used his own credit card to pay the towing fees on Vargas's vehicle after her credit card was declined.

COUNT II
INTERFERING WITH THE PROSECUTION

38. On or about September 10, 2013, Respondent contacted, via telephone, the Pittsfield Township City Attorney Victor Lillich ("Lillich")

39. On September 10, 2013, the Pittsfield Township Police Department had not yet submitted a warrant request on the Vargas arrest.

40. In his September 10, 2013 telephone conversation, Respondent advised Lillich that he wanted to "help" Vargas.

41. Respondent further advised Lillich that:

a. Vargas was his intern.

- b. Vargas was a law student in one of his classes.
- c. Lillich had previously met Vargas at the courthouse.
- d. Vargas was a “good girl.”
- e. She was from Texas and did not have much of a family to go back to.
- f. She was in a bad relationship with another student who was trying to circumvent her good progress in life.

42. During the September 10, 2013 conversation, Respondent advised

Lillich that:

- a. He was present at the scene of the arrest.
- b. There was a discrepancy between the PBT on the road and the Data-Master at the station.
- c. Vargas was released quickly from the jail with a very low PBT.

43. During the September 10, 2013 conversation with Lillich, Respondent requested a copy of all warrant request documents submitted by the police department.

44. On September 13, 2013, Lillich received a warrant request on Vargas.

45. On September 13, 2013 and again on September 15, 2013, Lillich sent Respondent, via email, copies of all documents contained in the Vargas warrant request.

46. Lillich provided the requested documents out of deference for Respondent's judicial position.

47. In the September 13, 2013 email, Lillich advised Respondent that he had reviewed the warrant request on Vargas and that he intended to authorize a charge of Operating While Intoxicated ("OWI") 1st Offense, MCL 257.625a.

48. On September 17, 2013, Respondent again contacted Lillich to discuss the Vargas matter.

49. During the September 17, 2013 conversation, Respondent and Lillich discussed the names of the attorneys who could properly represent Vargas.

50. Included among the attorneys considered was John Shea.

51. During the September 17, 2013 conversation, Respondent and Lillich agreed that Lillich would "sit" on the Vargas matter until she retained an attorney who could contact Lillich to further discuss the case.

52. On or about October 1, 2013, Vargas retained John Shea to represent her.

53. On or about October 1, 2013, John Shea contacted Lillich to discuss the Vargas matter, raising the issue of the discrepancy between the PBT and Data-Master results.

54. On October 17, 2013, the Director of the Pittsfield Township Police Department Matthew Harshberger (“Chief Harshberger”) contacted Lillich via email, asking for an explanation why the Vargas warrant had not yet been issued.

55. On the same day, Lillich advised Chief Harshberger that he had been “holding” the warrant to discuss issues raised by Respondent.

56. On Saturday, October 19, 2013, Chief Harshberger transmitted another email to Lillich, objecting to Respondent’s interfering in the Vargas case and demanding the immediate authorization of the warrant.

57. On Sunday, October 20, 2013, Lillich transmitted an email to Chief Harshberger advising that the Vargas warrant request was “signed” and was ready for pick up by the police-court liaison.

58. On Monday, October 21, 2013, Lillich disqualified himself and his law firm from the Vargas matter.

59. Lillich returned the Vargas warrant request to the Pittsfield Township Police Department as “denied” with a notation that it be re-submitted under state law.

60. On October 28, 2013, the Pittsfield Township Police Department re-submitted the Vargas warrant request to the Washtenaw County Prosecutor’s Office (“County Prosecutor.”)

61. On October 31, 2013, the County Prosecutor charged Vargas with one count of Operating a Motor Vehicle While Impaired (OWI).

62. In December of 2013, Lillich personally apologized to Respondent for not being able to “handle” the Vargas matter for him, as the County Prosecutor would likely take a harsher stand on the case because it involved an accident.

63. On January 8, 2014, Vargas entered a plea of guilty as charged to one count of OWI 1st Offense. She was sentenced on January 21, 2014.

COUNT III
MISREPRESENTATIONS

64. In his April 18, 2014 answers to the Commission’s Request for Comments (“Request for Comments”) and in his September 11, 2014 answers to the 28-day letter, Respondent denied that he had a “personal” relationship with Vargas. Respondent claimed that he:

- a. Never socialized with Vargas individually;
- b. His relationship with Vargas was a “professional relationship related to her internship duties;” and
- c. His contact with Vargas was only in “group settings, including other law students and/or court staff.”

65. Between August 1, 2013 and November 30, 2013, Respondent and Vargas exchanged approximately 10,000 phone calls and text messages. Those phone calls and text messages included seven phone calls (including one for 26 minutes) on the afternoon and evening of Saturday, September 7, 2013 (the last of which was at

9:36 PM), seven hours before Vargas was arrested for drunk driving. In addition, many of the text messages and phone calls between Respondent and Vargas took place well after the court's business hours, and as early as 5:30 AM.

66. On September 10, 2013, and September 17, 2013, the days that Respondent admits to having contacted Assistant Prosecutor, Victor Lillich, about Vargas' criminal case, Respondent and Vargas exchanged over 200 phone calls and text messages.

67. Respondent's statements to the Commission about his contacts and relationship with Vargas were false.

68. In his April 18, 2014 answers to the Request for Comments and in his September 11, 2014 answers to the 28-Day Letter, Respondent stated that he had appeared at the scene of Vargas' arrest on the morning of September 8, 2013 because he "was worried that the incident that night might be related to her ex-boyfriend" and that he went to the scene to see whether Vargas was "OK."

69. Those statements were false.

70. In his April 18, 2014 answers to the Request for Comments, Respondent claimed that on September 8, 2013, he did not speak with Vargas while Officer Cole was administering sobriety tests to her.

71. That statement was false.

72. In his September 11, 2014 answers to the 28-Day Letter, Respondent stated that on September 8, 2013, he “did not at any time while at that scene in any way intrude on the officer’s conduct of his investigation.”

73. That statement was false.

74. In his September 11, 2014 answers to the 28-Day Letter, Respondent stated that on September 8, 2013, he “did not ask for or suggest or imply in any way that he wanted special treatment for Ms. Vargas.”

75. That statement was false.

76. In his September 11, 2014 answers to the 28-Day Letter, Respondent stated that following her release from jail, Vargas “showed up at his home unexpectedly.”

77. That statement was false.

78. In his April 18, 2014 answers to the Request for Comments, Respondent stated that after September 8, 2013, he only had “snippets” of conversations with Vargas.

79. That statement was false.

80. In his April 18, 2014 answers to the Request for Comments, Respondent stated that during his conversations with Lillich about the Vargas matter, he “at no time...attempt[ed] to interfere with [Lillich’s] exercise of his prosecutorial discretion.”

81. That statement was false.

82. In his September 11, 2014 answers to the 28-Day Letter, Respondent stated that the reason he had contacted Lillich was to obtain the police reports so that he could determine whether Vargas “had been truthful with him in what she had reported to him concerning her arrest” and whether she “could be trusted as an intern” in his court.

83. Those statements were false.

84. In his September 11, 2014 answers to the 28-Day Letter, Respondent stated his reason for questioning the reliability of Vargas' on-the-scene alcohol testing was so that he could evaluate whether to retain Vargas as an intern.

85. That statement was false.

The conduct described in the above paragraphs, if true, may constitute:

- (a) Misconduct in office, as defined by the Michigan Constitution of 1963, Article VI, Section (2).
- (b) Conduct clearly prejudicial to the administration of justice, as defined by the Michigan Constitution of 1963, as amended, Article 6, Section 30, and MCR 9.205.
- (c) Failure to establish, maintain, enforce, and personally observe high standards of conduct to that the integrity and independence of the

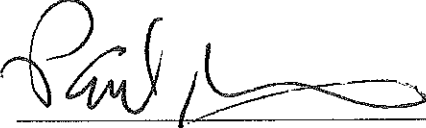
judiciary may be preserved, contrary to the Code of Judicial Conduct, Canon 1.

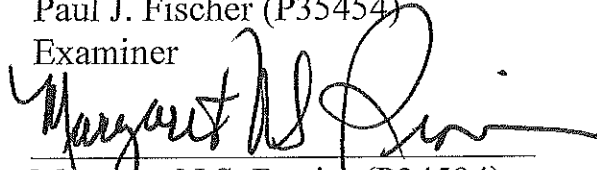
- (d) Irresponsible or improper conduct which erodes public confidence in the judiciary, in violation of the Code of Judicial Conduct, Canon 2A.
- (e) Conduct involving impropriety and the appearance of impropriety, in violation of the Code of Judicial Conduct, Canon 2A.
- (f) Failure to respect and observe the law and to conduct himself at all times in a manner which would promote the public's confidence in the integrity and impartiality of the judiciary, contrary to the Code of Judicial Conduct, Canon 2B.
- (g) Failure to not allow family, social, or other relationships to influence judicial conduct or judgment, contrary to the Code of Judicial Conduct, Canon 2C.
- (h) Failure to not use the prestige of office to advance personal business interests or those of others, contrary to the Code of Judicial Conduct, Canon 2C.
- (i) Conduct which is prejudicial to the proper administration of justice, in violation of MCR 9.104(1).
- (j) Conduct which exposes the legal profession or the courts to obloquy, contempt, censure, or reproach, in violation of MCR 9.104(2).

- (k) Conduct which is contrary to justice, ethics, honesty or good morals, in violation of MCR 9.104(3).
- (l) Conduct that violates the standards or rules of professional conduct adopted by the Supreme Court, contrary to MCR 9.104(4).
- (m) Conduct that violates a criminal law of a state or of the United States, contrary to MCR 9.104(5).
- (n) Lack of personal responsibility for his own behavior and for the proper conduct and administration of the court in which the judge presides, contrary to MCR 9.305(A).
- (o) Conduct in violation of Michigan's Obstruction of Justice statute, MCL 750.505.

Pursuant to MCR 9.209, Respondent is advised that an original verified answer to the foregoing complaint, and nine copies thereof, must be filed with the Commission within 14 days after service upon Respondent of the Complaint. Such answer shall be in a form similar to the answer in a civil action in a circuit court and shall contain a full and fair disclosure of all the facts and circumstances pertaining to Respondent's alleged misconduct. The willful concealment, misrepresentation, or failure to file such answer and disclosure shall be additional grounds for disciplinary action.

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