

MASSACHUSETTS SUPREME JUDICIAL COURT

In re Murphy

452 Mass. 796 (2008) · No. SJC-10249 · Decided December 18, 2008

SUMMARY

The Massachusetts Supreme Judicial Court reviewed disciplinary proceedings concerning Superior Court Judge Ernest B. Murphy’s letters to the publisher of the Boston Herald during related personal litigation. The court held that the letters violated several provisions of the Code of Judicial Conduct because their content, tone, and use of court stationery undermined public confidence and lent the prestige of judicial office to the judge’s private interests. The court publicly reprimanded Judge Murphy and ordered him to pay the costs of the proceedings.

CASE DETAILS

COURT	Massachusetts Supreme Judicial Court
JURISDICTION	Massachusetts
DECIDED	December 18, 2008
DOCKET	SJC-10249
DISPOSITION	other
PROCEDURAL POSTURE	The Massachusetts Supreme Judicial Court reviewed the Commission on Judicial Conduct's report and recommendations concerning disciplinary charges against Superior Court Judge Ernest B. Murphy.
STANDARD OF REVIEW	The Commission on Judicial Conduct was required to prove the charges by clear and convincing evidence.
PRECEDENTIAL VALUE	Published precedential opinion

TOPICS

- administrative law
- agency adjudication
- judicial review of agency action
- remedies

PRACTICE AREAS

- judicial discipline
- professional responsibility
- administrative law
- judicial ethics
- remedies

QUESTIONS PRESENTED

1. Whether Judge Murphy's letters to the opposing party in his personal litigation violated the Massachusetts Code of Judicial Conduct.

2. Whether the letters constituted conduct that failed to uphold judicial standards, created an appearance of impropriety, undermined public confidence in the judiciary, and improperly lent the prestige of judicial office to private interests.
3. What sanction was appropriate for the violations.

HOLDINGS

1. Although a judge is not prohibited from communications concerning personal litigation, including settlement communications, those communications must reflect the high standards required of a judge both on and off the bench.
2. The evidence established by the required clear and convincing standard that Judge Murphy violated Canon 1 (A), Canon 2, and Canons 2 (A) and (B) by failing to uphold judicial standards, failing to avoid impropriety and its appearance, undermining public confidence in judicial integrity and impartiality, and lending the prestige of judicial office to advance his private interests.
3. A public reprimand and assessment of the costs of the proceedings were the appropriate sanctions under the circumstances.

KEY QUOTATIONS

“Although a judge is not prohibited from communications related to personal litigation, including those in pursuit of settlement, permissible communications must reflect the standards required to be followed by a judge both on and off the bench.” (801-802)

“For a sitting judge to state with repeated emphasis that he knows with complete certainty what will happen in a case is a misuse of the power and prestige of judicial office; the judge’s use of an official court stationery envelope to mail the message exacerbated the misuse.” (802)

“In the circumstances of this case, we conclude that a public reprimand is the appropriate sanction.” (803)

FACTUAL BACKGROUND

Judge Ernest B. Murphy, while a sitting Superior Court judge and a litigant in a libel action against the Boston Herald and its employees, sent two letters to the Herald's publisher. The letters were written or mailed using official Superior Court stationery and sought a settlement payment exceeding the jury verdict, attempted to exclude the Herald's litigation counsel, and asserted emphatically that the Herald had no chance of prevailing on appeal. The letters were later filed in the litigation and published, leading to judicial-conduct complaints.

PROCEDURAL HISTORY

The Commission on Judicial Conduct investigated complaints concerning two letters Judge Murphy sent to the publisher of the Boston Herald during litigation between Murphy and the Herald. After formal charges, a hearing officer found violations of several judicial canons and recommended a public reprimand and assessment of costs. The Commission agreed as to several violations but recommended more severe discipline, including public censure, suspension, a fine, and costs. The Supreme Judicial Court reviewed the Commission's report, imposed a public reprimand, and ordered Murphy to pay the costs of the proceedings.

DISPOSITION

other

CASES CITED

- Matter of Morrissey, 366 Mass. 11, 16-17 (1974)
- Matter of Larkin, 368 Mass. 87, 91 (1975)
- Murphy v. Boston Herald, Inc., 449 Mass. 42 (2007)

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