

SUPREME COURT OF PENNSYLVANIA

In re Merlo, 619 Pa. 1

58 A.3d 1 (Pa. 2012) · Decided September 28, 2012

SUMMARY

The Pennsylvania Supreme Court reviewed the permanent removal of Magisterial District Judge Maryesther S. Merlo by the Court of Judicial Discipline. The court held that clear and convincing evidence supported violations involving absenteeism, delayed case disposition, improper handling of landlord-tenant matters, and abusive courtroom conduct, and affirmed the sanctions as lawful. The opinion discusses the constitutional standards governing judicial-discipline proceedings and appellate review of sanctions.

CASE DETAILS

COURT	Supreme Court of Pennsylvania
WRITING FOR THE COURT	Justice Todd; Chief Justice Castille; Justice Saylor; Justice Eakin; Justice Baer; Justice McCaffery
JURISDICTION	Pennsylvania
DECIDED	September 28, 2012
DISPOSITION	affirmed
PROCEDURAL POSTURE	Appeal from a final order of the Court of Judicial Discipline removing a magisterial district judge from office and permanently prohibiting her from holding judicial office in Pennsylvania.
STANDARD OF REVIEW	Review is plenary as to questions of law, clearly erroneous as to factual findings, and limited to whether sanctions imposed by the Court of Judicial Discipline are lawful. The Supreme Court may not reweigh aggravating and mitigating circumstances in reviewing the sanction.
PRECEDENTIAL VALUE	Published precedential decision of the Supreme Court of Pennsylvania
PARTIES	Maryesther S. Merlo v. Judicial Conduct Board of Pennsylvania

TOPICS

constitutional law appellate procedure standard of review administrative law agency adjudication

PRACTICE AREAS

QUESTIONS PRESENTED

1. Whether Merlo's chronic absenteeism, habitual tardiness, and related conduct brought her judicial office into disrepute under Article V, Section 18(d)(1) of the Pennsylvania Constitution.
2. Whether the evidence supported the findings that Merlo neglected or failed to perform the duties of her office and violated MDJ Rules 3A, 4A, 4C, and 5A.
3. Whether permanent removal from judicial office was a lawful sanction under Article V, Section 18(c)(2) of the Pennsylvania Constitution.
4. Whether the Court of Judicial Discipline's factual findings were clearly erroneous.

HOLDINGS

1. The Court of Judicial Discipline properly determined that Merlo's chronic absenteeism, habitual tardiness, failure to timely perform judicial duties, and related courtroom conduct were sufficiently extreme to bring her judicial office into disrepute in violation of Article V, Section 18(d)(1) of the Pennsylvania Constitution.
2. The evidence supported the CJD's findings that Merlo violated MDJ Rules 3A, 4A, 4C, and 5A and neglected or failed to perform the duties of her office under Article V, Section 18(d)(1).
3. The CJD's factual findings were supported by sufficient clear, direct, weighty, and convincing evidence and were not clearly erroneous.
4. Permanent removal from judicial office and prohibition from holding future judicial office were lawful sanctions under Article V, Section 18.

KEY QUOTATIONS

“Similarity of misconduct does not require identity of sanction, for there are other factors that bear on that decision, including mitigating and aggravating considerations and how a particular jurist’s misconduct undermines public confidence in the judiciary.” (at 15)

“On appeal, the Supreme Court or special tribunal shall review the record of the proceedings of the court as follows: on the law, the scope of review is plenary; on the facts, the scope of review is clearly erroneous; and, as to sanctions, the scope of review is whether the sanctions imposed were lawful.” (at 9)

FACTUAL BACKGROUND

Maryesther S. Merlo served as a Lehigh County magisterial district judge beginning in 2004 and was reelected in 2009. The disciplinary record established chronic absenteeism, habitual tardiness, delayed disposition of truancy matters, failure to conduct required landlord-tenant hearings, and offensive or abusive conduct toward litigants, attorneys, witnesses, staff, and defendants. The Court of Judicial Discipline found clear and convincing violations of MDJ Rules 3A, 4A, 4C, and 5A and Article V, Section 18(d)(1) of the Pennsylvania Constitution.

PROCEDURAL HISTORY

The Judicial Conduct Board filed consolidated disciplinary complaints alleging violations of the Rules Governing Standards of Conduct of Magisterial District Judges and Article V, Section 18(d)(1) of the Pennsylvania Constitution. Following a three-day trial, the Court of Judicial Discipline found clear and convincing evidence of multiple violations and ordered Merlo removed and permanently barred from judicial office. Merlo appealed to the Supreme Court of Pennsylvania, which affirmed.

DISPOSITION

affirmed

CASES CITED

- In re Berkheimer, 593 Pa. 366, 930 A.2d 1255 (2007)
- In re Merlo, 34 A.3d 932 (Pa. Ct. Jud. Disc. 2011)
- In re Lokuta, 964 A.2d 988 (Pa. Ct. Jud. Disc. 2008), *aff'd*, 608 Pa. 223, 11 A.3d 427 (2011)
- In re Berry, 979 A.2d 991 (Pa. Ct. Jud. Disc. 2009)
- In re Zoller, 792 A.2d 34 (Pa. Ct. Jud. Disc. 2001)
- In re Davis, 954 A.2d 118 (Pa. Ct. Jud. Disc. 2007)
- In re Smith, 687 A.2d 1229 (Pa. Ct. Jud. Disc. 1996)
- In re Daghir, 657 A.2d 1032 (Pa. Ct. Jud. Disc. 1995)
- In re Brown, 907 A.2d 684 (Pa. Ct. Jud. Disc. 2006)
- In re Hamilton, 932 A.2d 1037 (Pa. Ct. Jud. Disc. 2007)
- In re Kelly, 757 A.2d 456 (Pa. Ct. Jud. Disc. 2000)
- In re Harrington, 877 A.2d 570 (Pa. Ct. Jud. Disc. 2005)
- In re Cicchetti, 698 A.2d 704 (Pa. Ct. Jud. Disc. 1997)
- In re Joyce, 712 A.2d 847 (Pa. Ct. Jud. Disc. 1998)
- In re McCarthy, 828 A.2d 25 (Pa. Ct. Jud. Disc. 2003)
- In re Toczydowski, 853 A.2d 24 (Pa. Ct. Jud. Disc. 2004)
- In re Marraccini, 908 A.2d 377 (Pa. Ct. Jud. Disc. 2006)

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