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RUSSELL K. CORBY,
Complainant,
vs.
CHRISTOPHER RAIMANN,
Respondent

NEW JERSEY DEPT OF EDUCATION
SCHOOL ETHICS COMMISSION
AGENCY REFERENCE NO. C38 18
TOMS RIVER REGIONAL BOARD OF ED.
OCEAN COUNTY

NJ OFFICE OF ADMINISTRATIVE LAW
OAL Docket No.: EEC 17117-2018 S

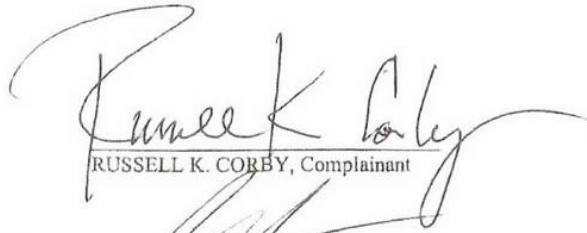
STIPULATION OF SETTLEMENT & DISMISSAL

THIS MATTER HAVING BEEN OPENED before the New Jersey School Ethics Commission pursuant to N.J.S.A. 18A:12-29(b), by Steven Secare Esq., attorney for the Complainant, Russell Corby, Toms River Regional Board of Education President; and in the presence of Terry Brady Esq., attorney for the Respondent, Christopher Raimann, former member of the Toms River Regional Board of Education; and whereas the Respondent acknowledges the School Ethics Commission's finding of probable cause for Counts 1-5 of the Complainant's Complaint, alleging solely violations of the Code of Ethics; and whereas the Complainant acknowledges the dismissal of Count 6 of the Complaint for lack of probable cause; and whereas the parties having agreed to a resolution of the matter referred by the School Ethics Commission to the Office of Administrative Law; and for good cause shown

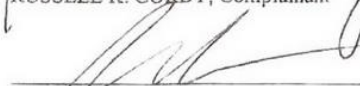
IT IS ON THIS 20th DAY OF AUGUST, 2019, STIPULATED AND AGREED that the above captioned matter has been amicably resolved by the parties and that the above-captioned matter is hereby dismissed; and it is

FURTHER STIPULATED that nothing in this Stipulation shall be deemed to be an admission of any wrongdoing or lack thereof by any of the parties involved.

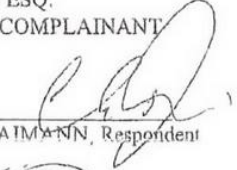
Dated:


RUSSELL K. CORBY, Complainant


Dated: 20 Aug 19


STEVEN SECARE ESQ.
ATTORNEY FOR COMPLAINANT

Dated:

8/19/19 
CHRISTOPHER RAIMANN, Respondent

Dated: 8/20/2019


TERRY BRADY ESQ.
ATTORNEY FOR RESPONDENT



State of New Jersey
OFFICE OF ADMINISTRATIVE LAW

ORDER

SUMMARY DECISION

OAL DKT NO EEC 17117-18

AGENCY DKT NO. #C38-18

RUSSELL K. CORBY,

Petitioner,

v

CHRISTOPHER RAIMANN, TOMS RIVER

REGIONAL BOARD OF EDUCATION,

OCEAN COUNTY,

Respondent.

Steven Secare, Esq., for petitioner (Secare & Hensel attorneys)

Terry F. Brady, Esq., for respondent (Brad & Kunz attorneys)

BEFORE **DOROTHY INCARVITO-GARRABRANT**, ALJ

PROCEDURAL HISTORY

By correspondence dated November 10, 2018, the School Ethics Commission (Commission) transmitted this matter, in which petitioner alleges violations of N.J.S.A. 18A:12-24.1, to the Office of Administrative Law (OAL) for a hearing to determine whether respondent, Christopher Raimann, violated the Code of Ethics for School Board Members. This matter was accepted and filed by the OAL on November 30,

2018. On March 8, 2019, respondent filed the instant Motion for Summary Decision in his favor dismissing the matter as moot. On April 1, 2019, petitioner filed opposition to the respondent's motion.

FACTUAL DISCUSSION

This matter arises out of petitioner's allegations that, while an elected school board member for the Toms River Regional Board of Education, respondent, Christopher Raimann, violated N.J.S.A. 18A:12-24.1(a), (c), (d), (e), (f), (g), (i) and (j) of the School Ethics Act.

At all times material and relevant hereto, petitioner was President of the Toms River Regional Board of Education. In June 2018, petitioner filed a Complaint, which was amended in August 2018, with the Commission, against Christopher Raimann, a board member, alleging violations of the Code of Ethics for School Board members. In general, the complaint includes allegations of partiality, lack of transparency in a public position, releasing and utilizing confidential information for a self-serving purpose, improper relationship with an entity that could affect negotiations, interference with the orderly administration of district.

The Commission found that there was no probable cause to support certain claims and dismissed those. The Commission also found probable cause to support other claims.

Respondent ran for re-election for his board member position in the November 2018 election. Respondent was defeated. Respondent is no longer a board member.

The preceding facts were undisputed. Therefore, for purposes of this decision on respondent's motion, I **FIND** them as **FACTS**.

In the instant motion, respondent contended that the doctrine of mootness warrants dismissal of the instant matter. Respondent is no longer an elected school board member. N.J.S.A. 18A:12-24.1, entitled Code of Ethics for School Board

Members, sets forth standards which the board member is required to abide. N.J.S.A 18A:12-29(b) requires that determinations regarding violations of this Code, must be made within ninety days of receipt of the complaint by the Commission. Respondent argues that this is to prevent delay in resolving the allegations so that the matter does not become moot.

In actions, such as the instant matter, in which violations are found after a hearing, the only consequences that can be imposed are a reprimand, censure, suspension or removal of the school board member from their position. Therefore, since respondent is no longer a school official or board member, the imposition of any of these consequences would have no effect. Generally, courts will not decide cases in which a judgment cannot grant effective relief. N.J. Div. of Youth & Fam. Serv. V. W.F., 434 N.J. Super. 288 (App. Div. 2014).

Based on the foregoing, there is no jurisdiction over the respondent. Therefore, this matter is moot and should be dismissed.

In response, petitioner makes the following arguments. Respondent's argument is without merit. The fact that respondent is no longer a school board member does not relieve this tribunal of jurisdiction and does not render the causes of action moot. The petitioner argues that, similar to other professions and actions, the hearing of a matter to make determination about violations of criminal law or codes of conduct do not cease if an individual charged with a crime or violation is no longer in the position he was in at the time of the alleged acts or misconduct.

The petitioner further argues that there are at least two exceptions to the issue of mootness being void under the law. The first is whether there is a significant public interest to be preserved. The second is whether the act complained of is capable of being repeated. State v. Davila, 443 N.J. Super. 577 (App. Div. 2015).

Petitioner submits the allegations against the respondent, for which there was a determination of probable cause to warrant a hearing, involve issues of public interest and integrity. They involve allegations of partiality, lack of transparency in a public

position, releasing and utilizing confidential information for a self-serving purpose, improper relationship with an entity that could affect negotiations, interference with the orderly administration of district business. If the allegations are sustained, such actions negatively affect the integrity of the school board, the proper functioning of the school district, and the public trust and confidence in the board and school district.

Finally, petitioner argues that the respondent's conduct, as alleged in this matter, could be repeated by him or other board members. Respondent is not prevented from being elected to a school board position in the future. If the respondent is found to have violated the School Ethics Act it would have an impact on the conduct of school board members statewide.

LEGAL ANALYSIS

Pursuant to N.J.A.C. 1:1-12.5(b), summary decision may be rendered if the papers and discovery which have been filed, together with the affidavits, if any, show that there is no genuine issue as to any material fact challenged and that the moving party is entitled to prevail as a matter of law." Further, "[w]hen a motion for summary decision is made and supported, an adverse party in order to prevail must by responding affidavit set forth specific facts showing that there is a genuine issue which can only be determined in an evidentiary proceeding." *Ibid.* This standard is substantially similar to that governing a civil motion under New Jersey Court Rule 4:46-2 for summary judgment. E.S. v. Div. of Med. Assistance & Health Servs., 412 N.J. Super. 340, 350 (App. Div. 2010); Contini v. Bd. of Educ. of Newark, 286 N.J. Super. 106, 121 (App. Div. 1995).

In Brill v. Guardian Life Insurance Co., 142 N.J. 520, 540 (1995), the New Jersey Supreme Court set forth the standard governing a motion for summary judgment:

[A] determination whether there exists a "genuine issue" of material fact that precludes summary judgment requires the motion judge to consider whether the competent evidential materials presented, when viewed in the light most favorable to the non-moving party, are sufficient to permit a rational factfinder to resolve the alleged disputed issue in favor of the non-moving party. The judge's function is not . . . to weigh

the evidence and determine the truth of the matter but to determine whether there is a genuine issue for trial.

Respondent's arguments that once a board member is no longer a member of the board, an ethics violation against said person becomes automatically moot is unpersuasive. In In re Carol Scudillo, 97 N.J.A.R.2d (EDU) 617, the court determined that the Commission was not divested of jurisdiction, despite the board member no longer being a on the school board, as the Commission ruled:

[I]t would recommend a higher penalty than censure if respondent were still on the board. . . . Further, [Scudillo] may plan to run for a seat on the board in the future. There should be no question that her conduct was a clear violation of N.J.S.A. 18A:12-24(c) and the general prohibition that board members must avoid conduct which is in violation of the public trust or which creates a justifiable impression among the public that such trust is being violated. N.J.S.A. 18A:12-22(a).

Id. at 622-23.

In re Carol Scudillo, the Commission recommended the penalty of censure for a board member, who lost her bid for reelection to the board after the complaint was filed but before the matter concluded. N.J.A.R. 2d at 619.

For the foregoing reasons, the School Ethics Commission adopts the initial decision that Carol Scudillo violated N.J.S.A. 18A:12-24(c) of the School Ethics Act by voting for her son-in-law's appointment as superintendent of schools in her district with the above modifications. The Commission agrees that since the penalties of removal and suspension are moot because Ms. Scudillo no longer sits on the board, the highest penalty that it can imposed is a censure. Therefore, the Commission agrees with the Administrative Law Judge's assessment of penalty and recommends that the Commissioner of Education impose a penalty of censure.

N.J.A.R. 2d at 629

In Bd. of Educ. of the City of Sea Isle City, Cape May County v. William J. Kennedy, 196 N.J. 1 (2008), the Supreme Court addressed issues concerning a

violation of the School Ethics Act despite the fact that a board member was no longer a member of the board. The Court's analysis clearly provides a guideline for similar situations

Although the instant matter is technically moot in that Kennedy's term of office is long over, the present controversy provides a vehicle through which guidance may be provided to school boards, their members, the Commissioner, and the SEC. We occasionally will decide matters where the issue is of substantial importance, likely to reoccur, but capable of evading review. See, e.g., Mistrick v. Div. of Med. Assistance & Health Servs., 154 N.J. 158, 165, 712 A.2d 188 (1998); State ex rel. J.G., N.S. & J.T., 151 N.J. 565, 575, 701 A.2d 1260 (1997); Zirger v. Gen. Accident Ins. Co., 144 N.J. 327, 330, 676 A.2d 1065 (1996).

196 N.J. at 18

The court's ruling in Sea Isle City clearly allows this tribunal to review the evidence presented to determine if "the issue is of substantial importance, likely to reoccur, but capable of evading review" as required in Sea Isle City, 196 N.J. 18.

Similar to the facts in Sea Isle City or In re Carol Scudillo, the underlying facts in the instant matter concern allegations of conflict of interest, lacks of transparency and impartiality, and acts of misconduct, which, if found, would violate the public trust and integrity of the political system and school district. These facts and the issues presented in the instant matter, if sustained, involve matters of substantial importance. They are likely to reoccur. To allow a board member to violate the code of ethics and then resign, or not seek re-election, after the filing of a complaint to avoid adjudication of the issues by rendering the action moot, would be contrary to the purpose of the Code of Ethics. It would permit that board member to repeat his actions in the future, should he be re-elected as a school board member. Rendering a matter such as this moot, by virtue of a loss of the position, would provide a mechanism to evade review and to subvert the purposes of the Code of Ethics.

Based on the foregoing, I **CONCLUDE** genuine issues of material fact exist and preclude summary decision in favor of respondent.

For these reasons, I **CONCLUDE** that respondent's motion for summary decision, due to the allegations in the complaint being moot must be **DENIED**

ORDER

For the reasons set forth above, it is hereby **ORDERED** that the respondent, Christopher Raimann's motion is hereby **DENIED**.

This order may be reviewed by the **SCHOOL ETHICS COMMISSION**, either upon interlocutory review pursuant to N.J.A.C. 1:1-14.10 or at the end of the contested case, pursuant to N.J.A.C. 1:1-18.6

August 13, 2019

DATE

DOROTHY INCARVITO-GARRABRANT, ALJ

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