

Judicial Review Council

In Re: Honorable Flemming L. Norcott, Jr.

February 16, 1994

MEMORANDUM OF DECISION

UNDERLYING PROCEEDINGS

On or about October 14, 1993, the Honorable Ellen A. Peters, Chief Justice of the Connecticut Supreme Court, referred to the Judicial Review Council the matter of the alleged failure of the Honorable Flemming L. Norcott, Jr., a Justice of the Connecticut Supreme Court, to recuse himself in State of Connecticut vs. Angel Medina, Jr., a criminal case argued before the Connecticut Supreme Court on April 30, 1993.

Following investigation and a probable cause hearing, held on January 20, 1994, the Judicial Review Council found probable cause to believe that Justice Norcott willfully failed to recuse himself in State vs. Medina and that said failure was conduct under Section 51-51i of the Connecticut General Statutes, and thereafter proceeded to a public hearing in accordance with Section 51-51l of the Connecticut General Statutes.

The Council filed the following charges against him:

CHARGES

1. On April 30, 1993, at the Connecticut Supreme Court, the Honorable Flemming L. Norcott, Jr., willfully failed to recuse himself in the case of State of Connecticut vs. Angel Medina, Jr., which conduct was prejudicial to the impartial and effective administration of justice which brought the judicial office in disrepute in violation of C.G.S. Section 51-51i(a)(1).
2. On April 30, 1993, at the Connecticut Supreme Court, the Honorable Flemming L. Norcott, Jr., willfully failed to recuse himself in the case of State of Connecticut vs. Angel Medina, Jr., which resulted in his failure to observe high standards of conduct, adversely affecting the integrity and independence of the judiciary, as required by Canon 1 of the Code of Judicial Conduct, in violation of C.G.S. Section 51-51i(a)(2).
3. On April 30, 1993, at the Connecticut Supreme Court, the Honorable Flemming L. Norcott, Jr., willfully failed to recuse himself in the case of State of Connecticut vs. Angel Medina, Jr., which resulted in his failure to act in a manner that promotes public confidence in the integrity and impartiality of the judiciary as required by Canon 2A of the Code of Judicial Conduct, in violation of C.G.S. Section 51-51i(a)(2).

4. On April 30, 1993, at the Connecticut Supreme Court, the Honorable Flemming L. Norcott, Jr., willfully failed to recuse himself in the case of State of Connecticut vs. Angel Medina, Jr., which resulted in his allowing his social and other relationships to influence his judicial conduct, as prohibited by Canon 2B of the Code of Judicial Conduct, in violation of C.G.S. Section 51-51i(a)(2).
5. On April 30, 1993, at the Connecticut Supreme Court, the Honorable Flemming L. Norcott, Jr., willfully failed to recuse himself in the case of State of Connecticut vs. Angel Medina, Jr., which resulted in a situation in which his impartiality might reasonably be questioned as prohibited by Canon 3C(1) of the Code of Judicial Conduct, in violation of C.G.S. Section 51-51i(a)(2).

The Judicial Review Council, pursuant to its statutory mandate, conducted a public hearing on February 8, 1994, wherein Justice Norcott appeared with counsel, testimony was received and entered as of record appears.

Based upon a clear and convincing standard of proof, the Council reached the following Finding of Facts and Conclusion:

FINDINGS OF FACT:

1. Justice Norcott sat as a member of the Supreme Court panel which decided State vs. Medina.
2. Attorney Suzanne Zitser, an Assistant Public Defender, represented the defendant Medina and on April 30, 1993 presented the oral argument on behalf of Medina before said panel, including Justice Norcott.
3. Attorney Zitser was a woman whom Justice Norcott had known for many years and with whom prior to April 30, 1993 he had a close personal relationship, which was acknowledged by Justice Norcott and upon which he placed no limitation on the Council's use of the term "close personal relationship."
4. At some time prior to April 30, 1993, a dispute had arisen between Justice Norcott and Attorney Zitser.
5. Based on their relationship and the dispute, Justice Norcott knew that he should have disqualified and recused himself in the Medina case but failed to do so.
6. Justice Norcott did not recuse himself because he did not want to explain the reasons therefore.

7. Justice Norcott did not recuse himself because he did not want to explain the nature of his relationship with Attorney Zitser nor the nature of his dispute with her.
8. The failure of Justice Norcott to recuse himself was willful.
9. Mr. Medina was subsequently granted a new hearing by the Supreme Court and the decision in the second Medina case was the same as that originally rendered by the Court with Justice Norcott's participation.

CONCLUSION:

CHARGE 1 - The Council found that this charge was proven and Justice Norcott is found guilty of said charge.

The decision was unanimous.

CHARGE 2 - The Council found that this charge was proven and Justice Norcott is found guilty of said charge.

The decision was unanimous.

CHARGE 3 - The Council found that this charge was proven and Justice Norcott is found guilty of said charge.

The decision was unanimous.

CHARGE 4 - The Council found that this charge was proven and Justice Norcott is found guilty of said charge.

The decision was unanimous.

CHARGE 5 - The Council found that this charge was proven and Justice Norcott is found guilty of said charge.

The decision was unanimous.

In accordance with the conclusions reached in regard to Charges 1-5 as set forth above, the Judicial Review Council hereby suspends Justice Flemming L. Norcott, Jr. from exercising his duties as a Justice of the Supreme Court for thirty (30) business days, effective March 28, 1994 on each of said Charges, said suspensions to run concurrently with each other. The vote for said penalty was 7 in favor and 3 against.

Dated this 16th day of February, 1994.

JUDICIAL REVIEW COUNCIL

John F. Fallon
Acting Chairman