

JUDICIAL REVIEW COUNCIL

IN RE: HON. HOWARD F. ZOARSKI

AUGUST 13, 1992

MEMORANDUM OF DECISION

UNDERLYING PROCEEDINGS:

On or about January 28, 1992, the Judicial Review Council received a complaint concerning the Honorable Howard F. Zoarski, a Judge of the Superior Court for the State of Connecticut. (See Council's Exhibit A.)

This complaint filed by Stuart Soffer, in essence, alleged that Judge Zoarski acted improperly by executing an arrest warrant and setting the bond therein.

The Judicial Review Council found probable cause to believe that Judge Zoarski had acted improperly and filed the following charges against him, to wit:

CHARGE I

The Judicial Review Council alleges that Howard F. Zoarski, a Judge of the Superior Court, engaged in conduct constituting a willful violation of Canons 2-B, and 3-C(1)(a) of the code of Judicial Conduct and charges that:

On or about August 3, 1990, a town of Branford police officer submitted an application for an arrest warrant to the respondent alleging that Stuart Soffer of Branford,

Connecticut on July 23, 1990 was littering on East Main Street in said town by dripping chicken manure and chicken feathers out of his truck. The respondent signed the warrant and set bond at \$1,000. The maximum penalty for the charge of littering is \$250 fine. The complainant alleges that the respondent, who resides in Branford, before he was appointed a judge was actively involved in litigation against the Soffer family and poultry farm operated by that family and that he allowed this relationship to influence his judicial conduct or judgment, and that because of this relationship he should have disqualified himself in the proceeding since his impartiality might reasonably be questioned and since he had a personal bias or prejudice against the Soffer family of which the complainant was a member.

CHARGE II

The Judicial Review Council alleges that Howard F. Zoarski, a Judge of the Superior Court, engaged in conduct prejudicial to the impartial and effective administration of justice which brings the judicial office in disrepute and charges that:

On or about August 3, 1990, a town of Branford police officer submitted an application for an arrest warrant to

the respondent alleging that Stuart Soffer of Branford, Connecticut on July 23, 1990 was littering on East Main Street in said town by dripping chicken manure and chicken feathers out of his truck. The respondent signed the warrant and set bond at \$1,000. The maximum penalty for the charge of littering is \$250 fine. The complainant alleges that the respondent, who resides in Branford, before he was appointed a judge was actively involved in litigation against the Soffer family and the poultry farm operated by that family and that he allowed this relationship to influence his judicial conduct or judgment, and that because of this relationship he should have disqualified himself in the proceeding since his impartiality might reasonably be questioned and since he had a personal bias or prejudice against the Soffer family of which the complainant was a member. Testimony and documentary evidence was received and entered as of record appears.

The Judicial Review Council, pursuant to its statutory mandate, conducted a public hearing on August 6, 1992, wherein Judge Howard F. Zoarski appeared with counsel, testimony was received and entered as of record appears.

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

FINDINGS OF FACT:

The respondent resides in the Town of Branford, State of Connecticut. The respondent was one of three partners in a partnership known as "Ramsey Associates" and the respondent also represented Ramsey Associates. Ramsey Associates owned a tract of land in Branford, abutting the Soffer Poultry Farm. Ramsey Associates desired to develop its land for a subdivision of homes. At least one of the Soffer barn buildings was within 50 feet of the Ramsey Associates' land. The Soffers claimed a right of way over the Ramsey Associates' land.

The complainant, a graduate of Cornell University with a degree in agricultural science, returned to the Soffer Family Poultry Farm in 1977 and has operated it since then.

In or after 1977, the respondent, as a principal in Ramsey Associates and as its attorney, was engaged in several controversies with the Soffer family over the alleged right of way, over improvements to the Soffer poultry farm structures, including compliance and enforcement of the building and zoning code, and, in

response to an inland wetlands complaint issued by the complainant, all as of record appears. Included among the controversies were Reynolds, et al. v. Soffer, et al., S.C. J.D. New Haven, Docket No. 159352; Reynolds, et al. v. Soffer, et al., S.C. J.D. New Haven, Return Date: July 10, 1979; Reynolds v. Soffer, Supreme Court, November Term 1980.

The respondent personally attended at least two court-ordered inspections of the two sites with the Soffer family, including the complainant and a Connecticut Judge in attendance. On one occasion, this inspection was to examine the right of way that was used by Stuart Soffer and his father to travel from the Soffer Poultry Farm, across a portion of the Ramsey Associates' land, to the family home.

On or about July 30, 1990, the respondent signed a written arrest warrant submitted to him by the Branford police against Stuart Soffer. The warrant recited a charge of littering based upon alleged drippings of chicken manure and feathers from a "Soffer poultry farm truck" onto a public road. The location of the Soffer poultry farm was described in the warrant. The respondent added a bond of \$1,000. The maximum fine for the charge of littering was \$250.

Based upon the above facts, the Council finds that at the time of signing the warrant, the respondent knew or should have know that the history of contentious relations and litigation with the Soffers and their poultry farm required him to disqualify himself from any participation in the Soffer arrest. The respondent also knew or should have known that the requirement of the \$1,000 bond would have required Stuart Soffer to spend some time in the Branford jail pending arrangements for the bond.

In failing to recuse himself from the warrant situation, the respondent placed in question his impartiality and judgment, as well as subjected himself to a claim of prejudice.

Judge Zoarski did not testify, but a portion of his testimony from the probable cause hearing was admitted as a full exhibit. The respondent claimed that he did not recognize the name "Stuart Soffer" nor the "Soffer poultry farm truck," as described in the warrant, as related to or connected with the Soffer Poultry Farm with which he had litigated previously, as both a principal in Ramsey Associates and as its attorney.

From the above facts, the Judicial Review Council concludes as follows:

I. FIRST COUNT

The Council found that this charge was proved and that Judge Howard F. Zoarski acted willfully in violating the cited Cannons. This was determined by an affirmative vote of six (6) for and three (3) opposed.

II. SECOND COUNT

The Council found by the same clear and convincing standard of proof that the Second Count was proved. This was a unanimous vote.

The Judicial Review Council hereby suspends Judge Howard F. Zoarski from exercising his duties as a Judge of the Superior Court for fifteen (15) days.

Dated this day of August, 1992.

JUDICIAL REVIEW COUNCIL

By _____
R. Bartley Halloran,
Chairman