

FILED

MAY 09 2014

BOARD OF COMMISSIONERS  
ON GRIEVANCES & DISCIPLINE

BEFORE THE BOARD OF COMMISSIONERS  
ON GRIEVANCES AND DISCIPLINE OF  
THE SUPREME COURT OF OHIO

*In re:*

Complaint Against

AMELIA ANGELA SALERNO (0032253) )  
Franklin County Municipal Court )  
375 South High Street )  
Columbus, Ohio 43215 )

CASE NO. 14-040-2

Respondent,

OHIO STATE BAR ASSOCIATION LEGAL )  
ETHICS AND PROFESSIONAL CONDUCT )  
COMMITTEE )  
(A Certified Grievance Committee) )  
1700 Lake Shore Drive )  
Columbus, Ohio 43204 )

COMPLAINT AND CERTIFICATE

(Rule V of the Supreme Court Rules for the  
Government of the Bar of Ohio).

Relator.

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1. On November 15, 1982, the Supreme Court of Ohio admitted Respondent, Amelia Angela Salerno (“Judge Salerno”), to the practice of law in the State of Ohio. The Respondent currently serves as a judge of the Franklin County Municipal Court. Because Judge Salerno is a member of the Bar of Ohio, the Supreme Court Rules for the Government of the Bar of Ohio, as adopted, and as amended from time to time, by the Supreme Court of Ohio, and the Ohio Rules of Professional Conduct, as adopted, and as amended from time to time, apply to Judge Salerno and to the conduct by Judge Salerno that serves as the basis of this Complaint. In addition, because Judge Salerno holds office as a judge of the Franklin County Municipal Court, the Ohio Code of Judicial Conduct, as adopted, and as amended from time to time, by the Ohio Supreme Court, applies to Judge Salerno and to the conduct by Judge Salerno that serves as the basis of

this Complaint.

2. Judge Salerno was first elected to the Franklin County Municipal Court in 2005 and has served continuously since that time as a judge of that Court.

**State of Ohio v. Joseph McGhee**

3. On Monday, July 29, 2013, the jury trial of State of Ohio v. Joseph McGhee commenced in Franklin County Municipal Court, with Judge Salerno presiding. In that case, Joseph McGhee (“the Defendant”) was charged with Assault, a Misdemeanor of the First Degree, and Disorderly Conduct, a Misdemeanor of the Fourth Degree.

4. On the morning of Thursday, August 1, 2013, after the conclusion of the testimony and arguments of counsel, the case was submitted to the jury for their deliberations on the verdict.

**The Judge Brings Jury Pool Members to Court to View the Verdict**

5. After submitting the case to the jurors impaneled to decide State of Ohio v. Joseph McGhee, the Judge visited the waiting room in the Jury Commissioners’ Office on the ninth floor of the Franklin County Municipal Court and had a pizza lunch with those members of the jury pool who were not chosen to decide State of Ohio v. Joseph McGhee. Some of these pool jurors had been seated as prospective jurors in State of Ohio v. Joseph McGhee, but were subsequently challenged and dismissed from sitting on that case.

6. While lunching with the pool jurors at the Jury Commissioners’ Office, Judge Salerno was informed that the jurors impaneled to decide State of Ohio v. Joseph McGhee, had reached a verdict.

7. After Judge Salerno learned that the jurors impaneled to decide State of Ohio v. Joseph McGhee, had reached a verdict, she invited the pool jurors to view the rendering of the

verdict in her courtroom on the thirteenth floor of the Franklin County Municipal Courthouse.

8. A sufficient number of those pool jurors came to view the rendering of the verdict in State of Ohio v. Joseph McGhee that Judge Salerno's courtroom was filled and there was standing room only in the public gallery of her courtroom.

**The Jury Returns a Verdict of Not Guilty on All Counts**

9. The jury returned verdicts of not guilty on all counts.

10. Prior to hearing the jury's verdict, Judge Salerno expected that the jury would return guilty verdicts against the Defendant: according to the grievant on one of the six complaints out of which this complaint arises, Judge Salerno reacted to the verdicts of not guilty with surprise and Judge Salerno admitted in her response to the grievances that she was "surprised by the verdict." In addition, Judge Salerno admitted in her response to the grievances that after the verdict, she remarked to the jurors impanelled to hear the case that after trial, she believed the prosecutors had a "slam dunk" case against Defendant McGhee.

11. After the jury returned its verdicts of not guilty in open court, on the record, and in the presence and hearing of the trial jurors and of the pool jurors who attended in the public gallery, Judge Salerno asked the trial jurors how they reached their verdicts.

12. After the jury returned its verdicts of not guilty in open court, on the record, and in the presence and hearing of the trial jurors and of the pool jurors who attended in the public gallery, Judge Salerno openly criticized or rebuked the trial jurors: according to the grievant on one of the six complaints out of which this complaint arises, Judge Salerno told the jurors that they reached the "wrong" verdict and Judge Salerno admitted in her response to the grievances that she stated to all in attendance and hearing that the jurors had reached the "wrong" verdict.

13. According to the grievant on one of the six complaints out of which this

complaint arises, after stating to all in attendance and hearing that the jurors had reached the “wrong” verdict, Judge Salerno then disclosed to the trial jurors and the pool jurors, in open court and in the presence and hearing of the trial jurors and of the pool jurors who attended in the public gallery, “facts” about Joseph McGhee, including that Joseph McGhee had a pending case for aggravated menacing and witness intimidation for threatening to shoot the witnesses in the trial. Those “facts” were both inadmissible in and irrelevant to the issues tried in State of Ohio v. Joseph McGhee and Judge Salerno was aware at the time she disclosed these “facts” that those “facts” were both inadmissible in and irrelevant to the issues tried in State of Ohio v. Joseph McGhee.

14. In her written response to the allegations of the grievance complaints filed against her in this matter, Judge Salerno admitted that: “I stated [to those in the courtroom] that in my opinion, the jury had arrived at the wrong verdict in the case and I went on to explain that the defendant had a pending case for aggravated menacing and witness intimidation for threatening to shoot the witnesses in the trial.”

15. Several of the trial jurors, including one of the six grievants who filed a complaint out of which this complaint arises, were quite upset by Judge Salerno’s post-verdict remarks, feeling that Judge Salerno had berated and criticized the jurors for returning verdicts of not guilty.

16. Because Judge Salerno had stated in the presence and hearing of members of the jury pool who still had additional time remaining in their jury service that “the jury had arrived at the wrong verdict in [State of Ohio v. Joseph McGhee],” Municipal Court Judge Ted Barrows felt compelled to delay an impending trial so that he could get a fresh set of jurors who had not heard, and who had not been biased or prejudiced by, Judge Salerno’s post-verdict remarks.

17. Because Judge Salerno had stated that “the jury had arrived at the wrong verdict in [State of Ohio v. Joseph McGhee],” Judge Salerno had to recuse herself from hearing a pending case against Defendant McGhee that had been assigned to her, thereby requiring that another judge of the Franklin County Municipal Court handle that case.

### **Judge Salerno’s Post-Verdict Remarks Received Nationwide News Coverage**

18. Judge Salerno’s post-verdict statement that “the jury had arrived at the wrong verdict in [State of Ohio v. Joseph McGhee],” received nationwide media coverage and engendered widespread ridicule of Judge Salerno and of the Ohio judiciary.

19. In addition to local coverage in *The Columbus Dispatch*<sup>1</sup> and on *WSYX* television<sup>2</sup> of Judge Salerno’s statement that “the jury had arrived at the wrong verdict in [State of Ohio v. Joseph McGhee],” articles criticizing Judge Salerno and her statement that “the jury had arrived at the wrong verdict in [State of Ohio v. Joseph McGhee],” appeared online in widely accessed, widely read websites, including *The ABA Journal*<sup>3</sup>, *The Huffington Post*<sup>4</sup>, *Abovethelaw.com*<sup>5</sup>, and *Slate.com*<sup>6</sup>, and on weblogs by law professors<sup>7</sup> and others<sup>8</sup> critical of her remarks.

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<sup>1</sup> In an article entitled *Judge Amy Salerno tells jurors they got verdict wrong* first appearing on August 7, 2013 at <http://www.dispatch.com/content/stories/local/2013/08/07/judge-amy-salerno-tells-jurors-they-got-verdict-wrong.html>

<sup>2</sup> See written version of television news story at <http://www.abc6onyourside.com/template/cgi-bin/archived.pl?type=basic&file=/shared/news/features/top-stories/stories/archive/2013/08/dJjnKks4.xml#UwEN0T-YbIU>. See also FOX News at <http://www.foxnews.com/us/2013/08/07/ohio-municipal-judge-says-sorry-after-scolding-jury-following-verdict/>.

<sup>3</sup> In an article entitled *Judge express ‘surprise’ over verdict; jurors complain* first appearing on August 6, 2013 at [http://www.abajournal.com/news/article/judge\\_loses\\_cool\\_over\\_verdict\\_chastises\\_jurors/](http://www.abajournal.com/news/article/judge_loses_cool_over_verdict_chastises_jurors/).

<sup>4</sup> In an article entitled *Judge Amy Salerno Apologizes for Scolding Jury for Non-Guilty Verdict* on August 7, 2013 at [http://www.huffingtonpost.com/2013/08/07/judge-amy-salerno-\\_n\\_3721806.html](http://www.huffingtonpost.com/2013/08/07/judge-amy-salerno-_n_3721806.html).

<sup>5</sup> In an article entitled *When Judges Attack! Judge Rips Jury for Not Guilty Verdict* first appearing on August 6, 2013 at <http://abovethelaw.com/2013/08/when-judges-attack-judge-rips-jury-for-not-guilty-verdict/>.

20. According to an online article that appeared in *The Huffington Post* about Judge Salerno's post-verdict remarks, "One juror says she cried after the judge berated the group and told them they 'got this wrong'".

21. According to an online article that appeared in *Slate.com* about Judge Salerno's post-verdict remarks:

What's the most important part of being a judge ... It's (sic) judgment: knowing when ... to yell at a jury for being stupid enough to acquit a defendant whom you believe to be guilty. There's *never* [italics in original] an appropriate time to publicly shame eight jurors in open court, you say? Well, then you're obviously not Judge Amy Salerno, the pride and joy of Franklin County (Ohio) Municipal Court, and a woman who will probably have an HLN show of her own before the year is up ... Judges are supposed to remain in control of their courtrooms and their own behavior, not make jurors feel bad for having done their duties as citizens.

22. In his blog, well-known George Washington University Law School Professor Jonathan Turley wrote the following about Judge Salerno's post-verdict remarks:

In this case, the jurors reported that the judge told them that 99 percent of the time jurors get the verdict right so that it was now down to 98 percent of the time. Even more worrisome is the alleged statement of the judge that the verdict did not matter because she was not done with the defendant. Jurors said that Salerno commented that the defendant had other charges pending and that she would see to it that he was punished ... The question is whether, if these allegations are true, Salerno should remain as a judge. I would find it quite troubling to learn that she was allowed to continue on the bench after violating such fundamental principles of judicial conduct.

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<sup>6</sup> In an article entitled *Four-Time "Worst Judge" Honoree Berates Ohio Jurors for Getting Verdict Wrong* first appearing on August 7, 2013 at [http://www.slate.com/blogs/crime/2013/08/07/judge\\_amy\\_salerno\\_franklin\\_county\\_municipal\\_court\\_ohio\\_judge\\_berates\\_jurors.html](http://www.slate.com/blogs/crime/2013/08/07/judge_amy_salerno_franklin_county_municipal_court_ohio_judge_berates_jurors.html).

<sup>7</sup> See blog of Law Professor Jonathan Turley in a blog entitled *Ohio Judge Allegedly Chastises Jury for Acquitting Defendant; Promises that She is Not Done With Defendant* at <http://jonathanturley.org/2013/08/07/ohio-judge-allegedly-chastises-jury-for-acquitting-defendant-promises-that-she-is-not-done-with-defendant/>.

<sup>8</sup> See *Simple Justice, A Criminal Defense* blog at <http://blog.simplejustice.us/2013/08/07/deliberate-fairly-before-you-convict/>; See *slaterzurz.com* at <http://slaterzurz.com/columbus-ohio-judge-scolds-jury/>; See *opposingviews.com*, which describes itself as a Los Angeles based website that reaches 4 million users each month at <http://www.opposingviews.com/i/society/ohio-judge-amy-salerno-scolds-jury-after-not-guilty-verdict>; See also San Francisco news station KRON4 at <http://news.kron4.com/news/judge-tells-jury-they-got-it-wrong/>.

23. In addition, numerous online comments by members of the public regarding Judge Salerno's remarks that the jury reached the wrong verdict brought ridicule and dishonor to both Judge Salerno and to the Ohio judiciary in general.

### MISCONDUCT

24. Judge Salerno engaged in conduct, as alleged above, that violated:

A. **Rule 2.8 Ohio Code of Judicial Conduct – Decorum, Demeanor, and Communication with Jurors**

\* \* \* \* \*

(C) A judge shall not commend or criticize jurors for their verdicts other than in a court order or opinion in a proceeding.

B. **Rule 1.2 Ohio Code of Judicial Conduct - Promoting Confidence in the Judiciary**

A judge shall act at all times in a manner that promotes public confidence in the independence, integrity, and impartiality of the judiciary, and shall avoid impropriety and the appearance of impropriety.

### COUNT I

#### (Decorum, Demeanor, and Communication with Jurors)

25. By this reference, Relator incorporates numbered-paragraphs I through 24, inclusive, of this Complaint.

26. As a result of Judge Salerno's post-verdict remarks as set forth above, Judge Salerno violated Section 2.8(C) of the Ohio Code of Judicial Conduct by criticizing the members of the trial jury for their verdicts other than in a court order or opinion in a proceeding.

### COUNT II

#### (Promoting Confidence in the Judiciary)

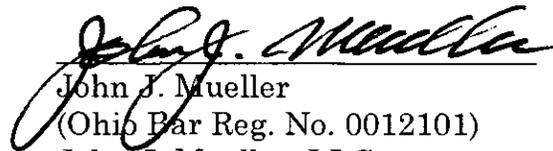
27. By this reference, Relator incorporates numbered-paragraphs 1 through 21 and 26, inclusive, of this Complaint.

28. By her acts and omissions as set forth above, Judge Salerno violated Rule 1.2 of the Ohio Rules of Judicial Conduct by failing to promote public confidence in the independence, integrity, and impartiality of the judiciary, and by failing to avoid impropriety and the appearance of impropriety.

### CONCLUSION

*Wherefore*, pursuant to Rule V of the Rules for the Government of the Bar of Ohio, Relator alleges that Respondent has committed, or has engaged in, misconduct within the meaning of § 6(A)(1), Gov.Bar R. V; therefore, Relator requests that the Supreme Court of Ohio discipline Respondent pursuant to Rule V of the Rules for the Government of the Bar of Ohio.

Respectfully submitted,

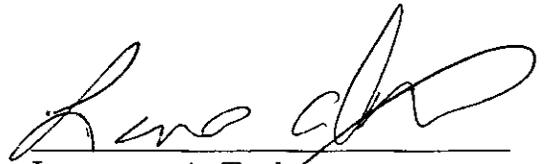


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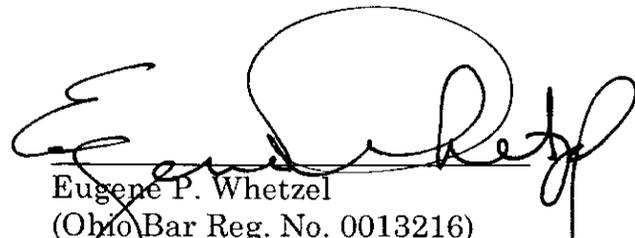


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CERTIFICATE

The undersigned Laurence Turbow, Esq., Chair  
(President, Secretary, Chairman of the Grievance Committee or Disciplinary Counsel)

of the Certified Grievance Committee of the Ohio State Bar Association

hereby certifies that Laurence Turbow, Esq., John J. Mueller, Esq. and Eugene P. Whetzel, Esq.

represent Relator in the premises and \_\_\_\_\_ have \_\_\_\_\_ accepted the responsibility of  
(has or have)

prosecuting the complaint to its conclusion. After investigation, Relator believes reasonable cause exists to warrant a hearing on such complaint.

Dated May 1, 2014

[Signature]

Chair  
(Title)

(Rule V of the Supreme Court Rules for the Government of the Bar of Ohio.)

Section (11)

(11) *The Complaint; Where Filed; By Whom Signed.* A complaint shall mean a formal written complaint alleging misconduct or mental illness of one who shall be designated as the Respondent. Six (6) copies of all such complaints shall be filed in the office of the Secretary of the Board. Complaints filed by a Certified Grievance Committee shall not be accepted for filing unless signed by one or more members of the Bar of Ohio in good standing, who shall be counsel for the Relator, and supported by a certificate in writing signed by the President, Secretary or Chairman of the Certified Grievance Committee, which Certified Grievance Committee shall be deemed the Relator, certifying that said counsel are duly authorized to represent said Relator in the premises and have accepted the responsibility of prosecuting the complaint to conclusion. It shall constitute the authorization of such counsel to represent said Relator in the premises as fully and completely as if designated and appointed by order of the Supreme Court of Ohio with all the privileges and immunities of an officer of such Court. The complaint may also, but need not, be signed by the person aggrieved.

Complaints filed by the Disciplinary Counsel shall be filed in the name of Disciplinary Counsel as Relator.

Upon the filing of a complaint with the Secretary of the Board, Relator shall forward a copy thereof to Disciplinary Counsel, to the Certified Grievance Committee of the Ohio State Bar Association, to the local bar association and to any Certified Grievance Committee serving the county or counties in which the Respondent resides and maintains his office and for the county from which the complaint arose.