

# The Star-Ledger

## Indictment dismissed against judge accused of hiding boyfriend

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A Superior Court judge granted a motion Friday to dismiss an official misconduct indictment against Middlesex County Judge Carlia M. Brady.

Brady was indicted in May on second-degree official misconduct as part of a three-count indictment for allegedly harboring her fugitive boyfriend Jason Prontnicki for approximately an hour on June 11, 2013, in her home before both were arrested there by police. Brady's lawyer, Fairfield-based attorney Tim Smith, said he is continuing to work on getting the remaining indictments dismissed.

At that time, Prontnicki was wanted in the armed robbery of an Old Bridge pharmacy on April 29, 2013.

In a complaint filed against Brady, the prosecution charged her of "never making any attempt to contact law enforcement" during that hour her and Prontnicki were in her home.

Attorney for the judge said his client had no inherent duty to execute an arrest warrant on her then-boyfriend.

Somerset County Superior Court Judge Julie M. Marino, now serving in Hunterdon County, ruled that Brady had "no specific, clearly spelled out duty to communicate within a certain length of time" with authorities and that the state "relied upon the broad duty of integrity and avoiding impropriety to argue that any contact from Prontnicki required defendant to alert authorities."

Smith had argued that Brady, 43, was acting as a private citizen and had no legal obligation to tell police that Prontnicki, 43, was en route and later present in her residence. Brady was facing a sentence of five to 10 years in state prison.

"We are obviously elated with this decision as it removes from the equation the only charge that exposed Judge Brady to presumptive jail time," Smith said Friday. "This type of rebuke to the

misuse of the official misconduct statute in this state is long overdue and hopefully justice, on a broader scale, will result from it.

"As recognized by the CATO Institute, when, as here, prosecutors effectively write their own criminal codes, it is representative of the antithesis of the rule of law. Thankfully, this type of abuse of governmental power was rejected today. We are extremely anxious to move to defeat the remaining counts to the indictment as they are equally defective."

Brady, who had been sworn in as a civil court judge just two months before her 2013 arrest, has been suspended without pay from her \$165,000-a-year-job since shortly after her arrest. Smith said her ultimate goal is to be reinstated as a judge.

Assistant prosecutor W. Brian Stack declined to comment.

In the indictment, Brady was charged with second-degree official misconduct for failing to notify police of Prontnicki's intended appearance or presence at her residence.

Brady was also charged with third-degree hindering by harboring or concealing Prontnicki within her home and third-degree hindering by offering to provide or aid Jason Prontnicki with money, transportation or clothing to assist him in avoiding arrest.

Marino cited a state Supreme Court ruling that stated "it is the duty of law enforcement agencies acting under the executive branch, not the judicial branch, to enforce arrest warrants."

The judge wrote that the defendant "didn't perform any of the supposed inherent duties suggested by the state on a regular basis (and) did not have a manual or handbook which could be relied upon." Brady, the judge said, was "acting as a private citizen."

Stack had argued that Brady knew Prontnicki was on his way to her home that day and it was her duty as a judge to notify police. It was a matter of "common sense," Stack said. He said Brady chose not to alert police that Prontnicki was en route to her home for "personal gain."

Stack also said text messages between the pair showed Brady told Prontnicki that they can't be seen together in her home and that she had a responsibility to turn him in to authorities.

Marino acknowledged those text messages in her ruling, but still said "the state has failed to satisfy its burden as to the duty and breach of duty element to sustain the present indictment for official misconduct."

The investigation was initially conducted by the Woodbridge Township Police Department, but transferred to the Somerset County Prosecutor's Office for further investigation and prosecution to avoid a conflict of interest, authorities previously stated.