

NEW YORK STATE COMMISSION ON JUDICIAL CONDUCT

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NEWS RELEASE

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July 22, 2015

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Oneida County Town Justice Should Be Censured for Advancing His Son's Interests in a Criminal Case

The New York State Commission on Judicial Conduct has determined that Daniel P. Sullivan, a Justice of the Whitestown Town Court, Oneida County, should be censured for lending the prestige of his judicial office to advance his son's private interests with respect to pending criminal charges.

Judge Sullivan agreed to the censure.

In 2013, the morning after learning that the police intended to charge his son for an incident that involved mistreating kittens, Judge Sullivan called the Whitestown police chief's cell phone and told the chief that he hoped the police would not "pile on" or "overcharge" his son.

Two days later, Judge Sullivan again improperly advocated for his son when the arresting officer came to the judge's court and explained that the judge's son would need to come to the police station and would be issued an appearance ticket. The judge asked, "Do you really have to arrest him?" and argued that a charge of animal cruelty was inapplicable.

Judge Sullivan's son was charged with Overdriving, Torturing and Injuring Animals, and Violating Prohibited Park Hours. The case was transferred to MARISA E. HARRISON RECORDS ACCESS OFFICER

another court, where the defendant pled guilty to Carrying Animal in a Cruel Manner.

In its determination the Commission stated: "The fact that [the judge] was able to reach the police chief, via the chief's cell phone, to discuss his son's case underscored both his special access, as a judge, to law enforcement officials and the likelihood that the police chief would give particular attention to [Judge Sullivan's] intercession on his son's behalf." The Commission found that Judge Sullivan engaged in "impermissible advocacy" when he told the chief of police "at a time when the police were still considering the potential charges to be filed," that he hoped the police would not "pile on" or "overcharge" his son.

The Commission also stated that: "While it is understandable that [Judge Sullivan] was concerned for his son and hoped for leniency in the officers' assessment of potential charges, his "paternal instincts" do not justify a departure from the standards expected of the judiciary." The Commission noted that a judge's instinct to help a family member "must be constrained by a judge's ethical responsibilities."

The Commission found that the judge's actions were "especially problematic" because he sought special consideration from local law enforcement. The Commission stated: "There is inherent pressure on the police – who presumably appear in the judge's court and knew that the suspect's father was the local judge – to agree to the request."

In determining the appropriate sanction the Commission found that the while the judge's actions were "highly improper," the judge's judgment was clouded by the "difficult circumstances" involving his son and that Judge Sullivan's involvement "was limited to a plea for leniency."

Judge Sullivan, who is not an attorney, has served as a Justice of the Whitestown Town Court since 2012. His current term expires on December 31, 2015.

The Commission Proceedings

Judge Sullivan was served with a Formal Written Complaint dated March 24, 2015, containing one charge, and entered into an Agreed Statement of Facts in lieu of filing an Answer.

On April 16, 2015, the Administrator of the Commission, Judge Sullivan and Judge Sullivan's attorney entered into an Agreed Statement of Facts, stipulating as to the facts and sanction and waiving further submissions and oral argument.

The Commission accepted the Agreed Statement on June 18, 2015.

The Commission Determination

The Commission filed a determination dated July 14, 2015, in which eight members concurred: Judge Thomas A. Klonick (the Commission Chair), Judge Terry Jane Ruderman (the Vice Chair), Judge Rolando T. Acosta, Joel Cohen, Esq., Jodie Corngold, Paul B. Harding, Esq., Richard A. Stoloff, Esq., and Judge David A. Weinstein.

One member, Richard D. Emery, Esq., filed a dissenting opinion, voting to reject the Agreed Statement of Facts on the basis that the sanction of censure was too lenient.

One member, Joseph W. Belluck, Esq., was not present.

There is currently one vacancy on the 11-member Commission.

Press Availability

Commission Administrator Robert H. Tembeckjian is out of town, but is available throughout the day by telephone: (646) 386-4791.

Court of Appeals Review

The Commission transmitted its determination to the Chief Judge of the Court of Appeals, pursuant to Judiciary Law Section 44, subdivision 7. Judge Sullivan received it on July 17, 2015, and the Commission was subsequently notified by the Court of Appeals that service was complete. Consequently, the matter is now public.

A judge may either accept the Commission's determination or, within 30 days from receipt, make a written request to the Chief Judge for a review of the determination by the Court of Appeals.

Pursuant to Judiciary Law Section 44, subdivision 7, if Judge Sullivan does not request review by the Court of Appeals, the Commission will censure him in accordance with the determination.

If a Commission determination is reviewed by the Court of Appeals, the Court may accept the determined sanction, impose a different sanction including admonition, censure or removal, or impose no sanction.

Statistics Relating to Prior Determinations

Since 1978, the Commission has issued 313 determinations of censure against judges in New York State. The Commission has issued 168 determinations of removal and 256 determinations of admonition.

The Court of Appeals has reviewed 95 Commission determinations. The Court accepted the Commission's sanctions in 79 cases (70 of which were removals, six were censures and three were admonitions). Of the remaining 16 cases, two sanctions were increased from censure to removal, and 13 were reduced: nine removal determinations were modified to censure, one removal was modified to admonition, two censures were modified to admonition, and one censure was rejected and the charges dismissed. The Court remitted one matter to the Commission for further proceedings.

Counsel

In the proceedings before the Commission, Judge Sullivan was represented by Robert F. Julian, Esq., 2037 Genesee Street, Suite #2, Utica, New York 13502, (315) 797-5610.

The Commission was represented by Robert H. Tembeckjian, Administrator and Counsel to the Commission, and Senior Attorney Thea Hoeth. Investigator Laura Misjak assisted in the investigation.

Background Information on Judge Sullivan

First took office: 2012

Current Term Expires: December 31, 2015

Salary: \$17,531 [Source: Seethroughny.net]

Prior Judicial Office: None

Other Employment: Oneida County Assistant Pistol Licensing Officer

Members of the Commission

The Commission members serve four-year terms. A list of members is appended.

The Public File

The determination is attached. The record of the proceedings upon which the determination is based is available for inspection by appointment during regular business hours at the Commission's three offices:

61 Broadway Suite 1200 New York, New York 10006 Corning Tower, Suite 2301 Empire State Plaza Albany, New York 12223 400 Andrews Street Suite 700 Rochester, New York 14604

MEMBERS OF THE STATE COMMISSION ON JUDICIAL CONDUCT

Member	Appointing Authority	Term End
Hon. Thomas A. Klonick, Chair	Chief Judge Jonathan Lippman	March 31, 2017
Hon. Terry Jane Ruderman, Vice Chair	Chief Judge Jonathan Lippman	March 31, 2016
Hon. Rolando T. Acosta	Chief Judge Jonathan Lippman	March 31, 2018
Joseph W. Belluck, Esq.	Governor Andrew M. Cuomo	March 31, 2016
Joel Cohen, Esq.	Former Assembly Speaker Sheldon Silver	March 31, 2018
Jodie Corngold	Governor Andrew M. Cuomo	March 31, 2019
Richard D. Emery, Esq.	Former Senate Minority Leader John L. Sampson	March 31, 2016
Paul B. Harding, Esq.	Assembly Minority Leader Brian M. Kolb	March 31, 2017
Richard A. Stoloff, Esq.	Former Senate President Pro Tem Dean Skelos	March 31, 2019
Hon. David A. Weinstein	Governor Andrew M. Cuomo	March 31, 2018
Vacant	Governor	March 31, 2017