

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

In the Matter of the Proceeding
Pursuant to Section 44, subdivision 4,
of the Judiciary Law in Relation to

THOMAS K. KEEFE,

STIPULATION

a Judge of the Albany City Court,
Albany County.

IT IS HEREBY STIPULATED AND AGREED by and between Robert H. Tembeckjian, Administrator and Counsel to the Commission, and the Honorable Thomas K. Keefe ("Respondent"), who is represented in these proceedings by Stephen F. Downs and Mark S. Mishler, as follows:

1. Respondent was admitted to practice law in New York in 1983. He has been a Judge of the Albany City Court, Albany County, since 2003. Respondent's current term expires December 31, 2022.

2. Respondent was served with a Formal Written Complaint dated November 13, 2014, containing thirteen charges, a copy of which is appended as Exhibit 1.

3. Respondent filed an Answer, dated December 31, 2014, and an Amended Answer dated September 10, 2015. A copy of the Amended Answer is annexed as Exhibit 2.

4. By Order dated February 25, 2015, the Commission designated Hon. Stewart A. Rosenwasser as Referee to hear and report in this matter. A hearing was held before the Referee on June 23, 24 and 25, 2015, and September 16, 17 and 18, 2015. Counsel

for the Commission called 17 witnesses and introduced 133 exhibits into evidence.

Respondent called seven witnesses, testified on his own behalf and introduced 79 exhibits into evidence.

5. The parties submitted post-hearing briefs to the Referee, who issued a Report dated June 13, 2016, in which he found that all but three of the Charges (VII, IX and X) were sustained. The Commission set a schedule for briefs and scheduled oral argument for October 20, 2016. Respondent was advised that Commission Counsel would recommend that Respondent should be removed from office. The Commission has not considered the Report or rendered a Determination.

6. Respondent submitted his resignation, dated August 5, 2016, to become effective September 30, 2016. A copy of Respondent's letter of resignation is appended as Exhibit 3.

7. Respondent affirms that he will vacate his judicial office on or before September 30, 2016.

8. Pursuant to Section 47 of the Judiciary Law, the Commission has 120 days from the date of a judge's resignation to complete proceedings, and if the Commission determines that the judge should be removed from office, file a determination with the Court of Appeals.

9. Respondent affirms that, once he has vacated his judicial office on or before September 30, 2016, he will neither seek nor accept judicial office at any time in the future.

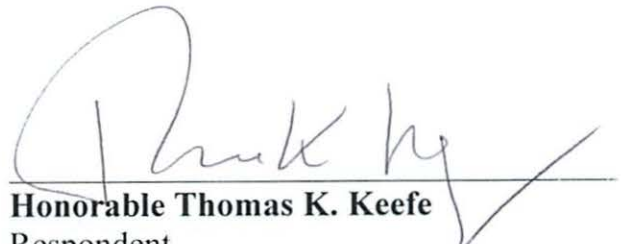
10. Respondent understands that, should he abrogate the terms of this Stipulation and hold any judicial position at any time after September 30, 2016, the present proceedings before the Commission will be revived, and the matter will proceed to a Determination by the Commission.

11. Upon execution of this Stipulation by the signatories below, this Stipulation will be presented to the Commission with the joint recommendation that the matter be concluded, by the terms of this Stipulation, without further proceedings.

12. Respondent waives confidentiality as provided by Section 45 of the Judiciary Law, to the extent that (1) this Stipulation will become public upon being signed by the signatories below, and (2) the Commission's Decision and Order regarding this Stipulation will become public.


Dated:

8/5/16


Honorable Thomas K. Keefe
Respondent

Dated:

8/5/16


Mark S. Mishler, Esq.
Attorney for Respondent

Dated: August 5, 2016

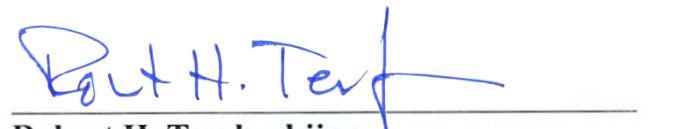

Robert H. Tembeckjian
Administrator and Counsel to the Commission
(**S. Peter Pedrotty** and **Cathleen S. Cenci**, Of Counsel)

EXHIBIT 1

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

In the Matter of the Proceeding
Pursuant to Section 44, subdivision 4,
of the Judiciary Law in Relation to

THOMAS K. KEEFE,

a Judge of the Albany City Court,
Albany County.

**NOTICE OF FORMAL
WRITTEN COMPLAINT**

NOTICE is hereby given to Respondent, Thomas K. Keefe, a Judge of the Albany City Court, Albany County, pursuant to Section 44, subdivision 4, of the Judiciary Law, that the State Commission on Judicial Conduct has determined that cause exists to serve upon Respondent the annexed Formal Written Complaint; and that, in accordance with said statute, Respondent is requested within twenty (20) days of the service of the annexed Formal Written Complaint upon him to serve the Commission at its Albany office, Corning Tower, Suite 2301, Albany, New York 12223, with his verified Answer to the specific paragraphs of the Complaint.

Dated: November 13, 2014
New York, New York

ROBERT H. TEMBECKJIAN
Administrator and Counsel
State Commission on Judicial Conduct
61 Broadway
Suite 1200
New York, New York 10006
(646) 386-4800

To: William J. Cade, Esq.
Attorney for Respondent
4 Pine Street
Albany, New York 12207-1903

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

In the Matter of the Proceeding
Pursuant to Section 44, subdivision 4,
of the Judiciary Law in Relation to

**FORMAL
WRITTEN COMPLAINT**

THOMAS K. KEEFE,

a Judge of the Albany City Court,
Albany County.

1. Article 6, Section 22, of the Constitution of the State of New York establishes a Commission on Judicial Conduct (“Commission”), and Section 44, subdivision 4, of the Judiciary Law empowers the Commission to direct that a Formal Written Complaint be drawn and served upon a judge.

2. The Commission has directed that a Formal Written Complaint be drawn and served upon Thomas K. Keefe (“Respondent”), a Judge of the Albany City Court, Albany County.

3. The factual allegations set forth in Charges I through XIII state acts of judicial misconduct by Respondent in violation of the Rules of the Chief Administrator of the Courts Governing Judicial Conduct (“Rules”).

4. Respondent was admitted to the practice of law in New York in 1983. He has been a Judge of the Albany City Court, Albany County, since 2003. Respondent’s current term expires on December 31, 2022.

CHARGE I

5. On various occasions from in or about March 2012 through about February 2013, Respondent made impatient, discourteous and undignified remarks to and about the Albany County District Attorney's Office and the prosecutors who appeared before him and, by his words and conduct, conveyed an impression of bias against the District Attorney's Office.

Specifications to Charge I

People v Joseph Reimann

6. On or about March 8, 2012, Respondent presided over *People v Joseph Reimann*, in which the defendant was charged with Aggravated Unlicensed Operation of a Motor Vehicle in the First Degree, an E felony, in violation of Vehicle and Traffic Law § 511(3), and several traffic infractions. The transcript of the court appearance is annexed as Exhibit 1.

7. After an off-the-record conference with Assistant District Attorney Tracey Chance and defense counsel Justin DeArmas, Respondent stated on the record, "There's a proposal to reduce this from a felony to a misdemeanor, and then take a plea to a misdemeanor."

8. In a raised and angry voice, Respondent then stated: "I'm so pissed off. Un-fucking-believable. I'm not supposed to swear on the record, but Jesus Christ, if other people can work out these ridiculous arrangements up in the county without a judge involved and then come down here and effectively blackmail me down here relative to doing something that I do not want to do...."

9. Respondent continued, "But here's what I'm told from the district attorney's office, that if I don't go along with this they intend to indict you and have you convicted of a felony, okay?"

10. After Respondent agreed to accept the plea proposal, he added, "[T]he district attorney's office should be absolutely ashamed of themselves."

11. At Respondent's invitation, Ms. Chance made a motion to reduce the felony charge of Aggravated Unlicensed Operation of a Motor Vehicle in the First Degree to the misdemeanor charge of Aggravated Unlicensed Operation of a Motor Vehicle in the Second Degree. Respondent granted the motion and, after a short discussion about the sentence, granted a request by Mr. DeArmas for a recess.

12. After the recess, Respondent stated, "Boy, I almost -- or maybe I did screw things up again, huh?" When Mr. DeArmas informed the court that the defendant still intended to accept the plea offer, Respondent stated, "Okay. Well, I came close. Okay. But in any case, that wasn't my intent, sir. My intent was just to express my personal chagrin."

13. Respondent accepted the defendant's guilty plea to the reduced charge.

People v Dennis E. McFadden

14. By a felony complaint dated November 5, 2012, Dennis E. McFadden was charged with Criminal Possession of Stolen Property in the Fourth Degree, in violation of Penal Law § 165.45(2). Mr. McFadden was also charged by a misdemeanor information dated November 5, 2012 with committing Criminal Possession of Stolen Property in the Fifth Degree, in violation of Penal Law § 165.40.

15. By order dated December 4, 2012, Supreme Court Justice Dan Lamont granted an *ex parte* motion by the prosecution, pursuant to Criminal Procedure Law § 180.40, for an order directing that the felony complaint be returned to Albany City Court for reconsideration of the action to be taken.

16. On or about February 28, 2013, Assistant District Attorney Brittany Grome and defense counsel Michael Jurena appeared before Respondent. The defendant was not present. The transcript of the court appearance is annexed as Exhibit 2.

17. Respondent stated that he had received a voicemail message from Assistant District Attorney Matthew Hauf, whom Respondent characterized as “chuckling” while “threaten[ing]” Respondent that if he did not accept the prosecution’s plea offer, the District Attorney’s Office would seek an indictment, exposing the defendant to prison time.

18. Respondent complained about the plea bargain process and said in a raised, agitated voice, “Now, listen, I realize I am a pain in the fucking ass. I realize I am driving people crazy. I’m sorry. I don’t give a damn.”

19. After advising Mr. Jurena of the plea allocution he would require from the defendant in order to accept the proposed plea, Respondent stated that the prosecution has “made this threat to me dozens of times.”

20. During a lengthy diatribe, Respondent stated in a raised voice, “I participated in this insane system with my eyes closed, just like everybody else. I’m not doing it anymore. I don’t give a damn that nobody likes it. I don’t give a damn that it drives people crazy. I’m just not doing it anymore.”

21. Respondent continued to repeatedly claim that the District Attorney's Office "threatened" him to accept plea proposals.

People v Florence M. Shultis

22. By information dated May 17, 2012, Florence M. Shultis was charged with Aggravated Harassment in the Second Degree, in violation of Penal Law § 240.30(1).

23. On or about May 18, 2012, Respondent presided over the defendant's arraignment, fixed bail in the amount of \$5,000 and issued a securing order (A) remanding the defendant to the custody of the Albany County Sheriff upon her failure to post bail and (B) ordering a mental examination.

24. On or about May 22, 2012, Deputy Chief Assistant District Attorney Cheryl Fowler and Assistant Public Defender Julianne Girard appeared before Respondent in *Shultis*. ADA Fowler requested an adjournment and a continuance of bail.

25. Respondent asked to speak privately with Ms. Fowler and Ms. Girard in the jury room next to the courtroom. In the jury room, Ms. Fowler attempted to explain the reasons for her request to continue bail and adjourn the case. Respondent became irate and yelled profanities, including the word "fuck," at Ms. Fowler for several minutes. Among other things, Respondent yelled, in sum or substance, "Who the fuck are you to make me keep [the defendant] in jail while you do this?"

26. Respondent then asked Ms. Fowler what she intended to state on the record. When Ms. Fowler responded that she intended to state that Respondent had already made up his mind about releasing the defendant, Respondent began screaming at her again,

warning her not to say that on the record. As Ms. Fowler walked out of the jury room, Respondent continued yelling at her.

27. After returning to the courtroom, Respondent ordered the defendant released under the supervision of the Albany County Probation Department.

28. On or about May 31, 2012, Ms. Fowler offered a plea proposal which included a sentence of time served, three years of probation and an order of protection. Respondent rejected the proposal.

29. On or about June 25, 2012, Assistant District Attorney Shannon Corbitt, the defendant and Ms. Girard appeared before Respondent. The transcript of the court appearance is annexed as Exhibit 3.

30. At the outset, Respondent stated that he intended to adjourn the matter notwithstanding the defendant's willingness to accept the prosecution's plea offer. Explaining his reluctance to accept the plea proposal, Respondent stated, "I'm going to do my job as I see it and if people don't like it, they should do something about it instead of whining about it, right? So, the bottom line is, I have all the time in the world. I'm running for re-election unopposed. I'm going to be here for 10 years and if you think that I've caused problems up to this moment, you haven't seen anything yet."

31. In response to an inquiry by Ms. Corbitt, Respondent confirmed that he was referring to the District Attorney's Office when he spoke about "whining."

32. Over Ms. Corbitt's objection, Respondent adjourned the case for eight weeks.

33. The prosecution filed a superior court information, and the case was transferred to Supreme Court. In or about October 2012, Supreme Court Justice Joseph Teresi disposed of the case pursuant to a plea agreement.

People v Samuel Newport

34. On or about January 25, 2013, Respondent presided over *People v Samuel Newport*, in which the defendant was charged with two counts of Criminal Possession of a Controlled Substance in the Seventh Degree, in violation of Penal Law § 220.03.

35. The defense attorney, Joseph Ahearn, stated that the defendant wished to accept the District Attorney's plea offer to two counts of Disorderly Conduct, in satisfaction of the original charges. Respondent refused to accept the plea proposal and directed Mr. Ahearn and Assistant District Attorney Brittany Grome to speak with him in private.

36. In a conference room, after a brief discussion about the plea proposal, Respondent criticized the ethics and practices of the District Attorney's Office and District Attorney David Soares in an angry, loud voice for several minutes. Respondent repeatedly used profanities, including the word "fuck." When ADA Grome asked Respondent to stop, Respondent said, in sum or substance, "If you don't fucking like the way things are going in this fucking courtroom, then don't come back."

People v Scott J. Chestnut

37. On or about October 11, 2012, Scott J. Chestnut was charged with two counts of Petit Larceny. By decision and order dated December 12, 2012, Respondent granted the defendant's Criminal Procedure Law § 440.10 motion to vacate a judgment of

convictions on two unrelated counts of Petit Larceny, entered by Albany City Court Judge Rachel L. Kretser.

38. In or about February 2013, the defendant was charged by grand jury indictment in Albany County Court with Burglary in the Third Degree, arising from an incident underlying one of the Petit Larceny convictions that had been vacated by Respondent.

39. Senior Assistant Public Defender George Mehm and Assistant District Attorney Christopher Torelli were the attorneys in county court.

40. In or about August 2013 or September 2013, the defendant pled guilty to the charge of Burglary in the Third Degree, was sentenced to time served by Albany County Court Judge Peter A. Lynch and released from custody.

41. On or about September 11, 2013, after learning that the defendant had allegedly died from an overdose of heroin after he was released from jail, Respondent made a record in court, a transcript of which is annexed as Exhibit 4. Respondent said that he had told Mr. Mehm “that I believed that the district attorney’s office is responsible for the death of Scott Chestnut. I believe the public defender’s office and the Office of Court Administration are responsible for the death of Scott Chestnut. However, I think the greatest liability is on the district attorney’s office.”

42. Respondent also stated, “whatever ADAs touched this case, they should have a hard time sleeping at night. If they don’t have a hard time sleeping at night, they’re in the wrong line of work.”

43. Respondent then refused to let Assistant District Attorney Brittany Grome respond to his statement.

44. By reason of the foregoing, Respondent should be disciplined for cause, pursuant to Article 6, Section 22, subdivision (a), of the Constitution and Section 44, subdivision 1, of the Judiciary Law, in that Respondent failed to uphold the integrity and independence of the judiciary by failing to maintain high standards of conduct so that the integrity and independence of the judiciary would be preserved, in violation of Section 100.1 of the Rules; failed to avoid impropriety and the appearance of impropriety, in that he failed to respect and comply with the law and failed to act in a manner that promotes public confidence in the integrity and impartiality of the judiciary, in violation of Section 100.2(A) of the Rules; and failed to perform the duties of judicial office impartially and diligently, in that he failed to be patient, dignified and courteous, in violation of Section 100.3(B)(3) of the Rules, and manifested, by words and conduct, bias and prejudice against the District Attorney's Office, in violation of Section 100.3(B)(4) of the Rules.

CHARGE II

45. On or about February 9, 2012, while presiding over *People v J. P. M.*, Respondent made discourteous and impatient remarks to the prosecutor, failed to accord the prosecutor the right to be heard according to law and *sua sponte* dismissed the charges without a written motion to dismiss before him, in violation of Criminal Procedure Law §§ 170.30, 170.45 and 210.45.

Specifications to Charge II

46. On or about February 14, 2010, J ■■■ P ■■■ M ■■■ was charged with Criminal Possession of a Weapon in the Second Degree, in violation of Penal Law § 265.03(3), and Unlawful Possession of Marihuana, in violation of Penal Law § 221.05.

47. By letter dated January 12, 2012, Respondent's secretary advised Assistant District Attorney Tracey Chance and the defense attorney, Gaspar Castillo, that a jury trial in *People v J ■■■ P ■■■ M ■■■* was scheduled for February 9, 2012.

48. On or about February 9, 2012, the defendant, Ms. Chance and Mr. Castillo appeared before Respondent. The transcript of the court appearance is annexed as Exhibit 5.

49. Ms. Chance referred to the District Attorney's offer of a plea to a misdemeanor and the imposition of a fine and surcharge. Mr. Castillo stated that the defendant had declined the offer.

50. Respondent stated, "Okay. So that means I'm dismissing this case since we're scheduled for a trial today. Right?" When Ms. Chance attempted to state her position, Respondent abruptly cut her off, stating "Okay, okay. Fine. Court's closed," without giving her an opportunity to be heard.

51. Respondent *sua sponte* dismissed the charges, in the absence of a motion to dismiss made in writing and/or reasonable notice to the District Attorney's Office, in violation of Criminal Procedure Law §§ 170.30, 170.45 and 210.45.

52. By reason of the foregoing, Respondent should be disciplined for cause, pursuant to Article 6, Section 22, subdivision (a), of the Constitution and Section 44,

subdivision 1, of the Judiciary Law, in that Respondent failed to uphold the integrity and independence of the judiciary by failing to maintain high standards of conduct so that the integrity and independence of the judiciary would be preserved, in violation of Section 100.1 of the Rules; failed to avoid impropriety and the appearance of impropriety, in that he failed to respect and comply with the law and failed to act in a manner that promotes public confidence in the integrity and impartiality of the judiciary, in violation of Section 100.2(A) of the Rules; and failed to perform the duties of judicial office impartially and diligently, in that he failed to be faithful to the law and maintain professional competence in it, in violation of Section 100.3(B)(1) of the Rules, failed to be patient, dignified and courteous to the prosecutor, in violation of Section 100.3(B)(3) of the Rules, and failed to accord the prosecutor the right to be heard according to law, in violation of Section 100.3(B)(6) of the Rules.

CHARGE III

53. In or about August 2013, Respondent *sua sponte* dismissed the charges in *People v J ■ ■ . P ■ ■* in the absence of a motion to dismiss made in writing and/or reasonable notice to the District Attorney's Office, in violation of Criminal Procedure Law §§ 170.30, 170.45 and 210.45.

Specifications to Charge III

54. On or about December 20, 2003, J ■ ■ . P ■ ■ was charged with Driving While Intoxicated Per Se, in violation of VTL § 1192(2), and Driving While Intoxicated, in violation of VTL § 1192(3).

55. By decision and order dated July 1, 2004, Respondent granted the defendant's motion for a *Dunaway/Mapp* hearing and scheduled the hearing for July 26, 2004.

56. At the request of the defendant's attorney, Eric Sills, the *Dunaway/Mapp* hearing was adjourned until a later date.

57. On or about October 13, 2004, Respondent called Mr. Sills and advised him that the court had lost the P [REDACTED] file. Respondent informed Mr. Sills that the court would contact him to reschedule the *Dunaway/Mapp* hearing when the file was located.

58. Thereafter, Respondent took no action to reschedule the case, and neither the prosecution nor the defense made any further applications to the court.

59. On or about August 7, 2013, without requiring any appearances in the case and in the absence of any application by any party, Respondent *sua sponte* dismissed the charges in P [REDACTED] notwithstanding that no motion to dismiss had been made as required by Criminal Procedure Law §§ 170.30, 170.45 and 210.45.

60. Respondent did not advise the District Attorney's Office or Mr. Sills of the dismissal of the charges.

61. By reason of the foregoing, Respondent should be disciplined for cause, pursuant to Article 6, Section 22, subdivision (a), of the Constitution and Section 44, subdivision 1, of the Judiciary Law, in that Respondent failed to uphold the integrity and independence of the judiciary by failing to maintain high standards of conduct so that the integrity and independence of the judiciary would be preserved, in violation of Section 100.1 of the Rules; failed to avoid impropriety and the appearance of impropriety, in that

he failed to respect and comply with the law and failed to act in a manner that promotes public confidence in the integrity and impartiality of the judiciary, in violation of Section 100.2(A) of the Rules; and failed to perform the duties of judicial office impartially and diligently, in that he failed to be faithful to the law and maintain professional competence in it, in violation of Section 100.3(B)(1) of the Rules, and failed to accord to every person who has a legal interest in the proceeding the right to be heard according to law, in violation of Section 100.3(B)(6) of the Rules.

CHARGE IV

62. On or about February 15, 2013, Respondent created the appearance of impropriety by meeting *ex parte* with the defendant in *People v Quavon Johnson*, shortly after pronouncing the defendant's sentence and contemporaneously signing a commitment order indicating a sentence that differed from the pronounced sentence, without providing notice to the attorneys of his meeting with the defendant and the change in sentence.

Specifications to Charge IV

63. On or about February 15, 2013, defendant Quavon Johnson appeared before Respondent on an allegation that he violated the terms and conditions of his probation. The transcript of the court appearance is annexed as Exhibit 6.

64. The defendant's attorney, Assistant Public Defender Meaghan Leisenfelder, stated that the defendant was willing to plead guilty in exchange for the prosecution's plea offer of a sentence to three months in jail.

65. Respondent accepted the defendant's guilty plea and pronounced the defendant's sentence as three months in jail with credit for time served.

66. Immediately after the defendant's sentencing, the defendant was taken into custody and placed in a holding cell downstairs from the courtroom. Shortly thereafter, Respondent entered the cell block, walked directly to the defendant's cell and briefly met with him.

67. Respondent provided no notice to Assistant District Attorney Brittany Grome or Ms. Leisenfelder of his private meeting with the defendant, nor did he advise them of it afterwards.

68. Respondent signed a commitment order, dated February 15, 2013, indicating that the defendant was sentenced to "time served."

69. Respondent provided no notice to Ms. Grome or Ms. Leisenfelder of the change in sentence.

70. Later on February 15, 2013, the defendant was released from Albany County Correctional Facility, pursuant to Respondent's commitment order.

71. By reason of the foregoing, Respondent should be disciplined for cause, pursuant to Article 6, Section 22, subdivision (a), of the Constitution and Section 44, subdivision 1, of the Judiciary Law, in that Respondent failed to uphold the integrity and independence of the judiciary by failing to maintain high standards of conduct so that the integrity and independence of the judiciary would be preserved, in violation of Section 100.1 of the Rules; failed to avoid impropriety and the appearance of impropriety, in that he failed to respect and comply with the law and failed to act in a manner that promotes

public confidence in the integrity and impartiality of the judiciary, in violation of Section 100.2(A) of the Rules; and failed to perform the duties of judicial office impartially and diligently, in that he failed to accord to every person who has a legal interest in a proceeding the right to be heard according to law and initiated *ex parte* communications concerning a pending proceeding, in violation of Section 100.3(B)(6) of the Rules.

CHARGE V

72. In or about February 2013, Respondent created the appearance of impropriety by meeting *ex parte* with the defendant in *People v H [REDACTED] J [REDACTED]* while his criminal case was pending before Respondent.

Specifications to Charge V

73. On or about December 8, 2010, defendant H [REDACTED] J [REDACTED] pled guilty to Criminal Possession of a Controlled Substance in the Seventh Degree in exchange for a one-year sentence, with such sentence suspended upon the condition that he successfully completed the Albany Regional Drug Court Program.

74. On or about February 22, 2013, the defendant was brought before Respondent after having been arrested on a bench warrant that had been issued by Respondent on April 18, 2012. The transcript of the court appearance is annexed as Exhibit 7.

75. Respondent remanded the defendant and ordered him to be produced at the next drug court session. Respondent stated that the defendant had three choices: request a hearing on whether he violated his drug-court agreement, request to remain in drug court or request to be sentenced.

76. On or about February 27, 2013, the defendant appeared before Respondent. The transcript of the court appearance is annexed as Exhibit 7. The defendant's attorney, Assistant Public Defender Meaghan Leisenfelder, informed the court that the defendant was requesting to be sentenced. Respondent scheduled the sentencing date for April 24, 2013 and issued an order for a pre-sentence investigation report. On the order, Respondent wrote "1 year Drug Ct. failure."

77. Respondent did not indicate on the record whether the defendant was released or remanded pending sentencing.

78. Later on February 27, 2013, Respondent went down to the cell block located in the building below city court, and spoke with the defendant *ex parte* for approximately two to five minutes. Respondent told the defendant, in sum or substance, that he was going to release him from custody and that the defendant was going to be "administratively discharged" from the drug court program.

79. Respondent provided no notice to Assistant District Attorney Brittany Grome or Ms. Leisenfelder of his conversation with the defendant on the cell block, nor did he advise them of it afterwards.

80. On or about February 27, 2013, Respondent issued an order releasing the defendant from custody. Respondent provided no notice to Ms. Grome or Ms. Leisenfelder that he was ordering the defendant to be released from custody, nor did he advise them of it afterwards.

81. On or about April 24, 2013, the defendant appeared before Respondent for sentencing. The transcript of the court appearance is annexed as Exhibit 7. Ms. Grome

requested that the defendant be sentenced to 12 months in Albany County Jail pursuant to the terms of his drug court agreement. Ms. Leisenfelder requested that the defendant be sentenced to a conditional discharge. Respondent sentenced the defendant to a conditional discharge, 30 hours of community service and a \$200 surcharge.

82. By reason of the foregoing, Respondent should be disciplined for cause, pursuant to Article 6, Section 22, subdivision (a), of the Constitution and Section 44, subdivision 1, of the Judiciary Law, in that Respondent failed to uphold the integrity and independence of the judiciary by failing to maintain high standards of conduct so that the integrity and independence of the judiciary would be preserved, in violation of Section 100.1 of the Rules; failed to avoid impropriety and the appearance of impropriety, in that he failed to respect and comply with the law and failed to act in a manner that promotes public confidence in the integrity and impartiality of the judiciary, in violation of Section 100.2(A) of the Rules; and failed to perform the duties of judicial office impartially and diligently, in that he failed to accord to every person who has a legal interest in a proceeding the right to be heard according to law and initiated an *ex parte* communication concerning a pending proceeding, in violation of Section 100.3(B)(6) of the Rules.

CHARGE VI

83. In or about 2013, Respondent created the appearance of impropriety by engaging in an *ex parte* conversation with the defendant in *People v Kenrick Lewis* about, *inter alia*, the defendant's potential sentence and ineligibility for the drug court program.

Specifications to Charge VI

84. On or about August 6, 2012, Kenrick Lewis was charged Criminal Possession of Marihuana in the Fifth Degree, in violation of Penal Law § 221.10(2).

85. In or about January, February or March 2013, Respondent engaged in a conversation with the defendant outside of the courthouse, in the absence of counsel and the prosecution, about the charge against the defendant, the potential prison time he was facing and the defendant's ineligibility for drug court.

86. On or about April 1, 2013, the defendant appeared before Respondent. The transcript of the court appearance is annexed as Exhibit 8. Respondent acknowledged having had, on an earlier occasion, a conversation with the defendant "about [his] case," while they waited together outside the courtroom with other defendants. Respondent acknowledged they had discussed that the defendant was charged with a B misdemeanor, faced three months in prison, was ineligible for drug court and should "go out and get arrested for something more serious." In court, Respondent told the defendant he "screwed things up by not getting arrested."

87. Later in the proceeding, Respondent accepted the defendant's guilty plea to the charge of Criminal Possession of Marihuana in the Fifth Degree and sentenced him to a conditional discharge.

88. By reason of the foregoing, Respondent should be disciplined for cause, pursuant to Article 6, Section 22, subdivision (a), of the Constitution and Section 44, subdivision 1, of the Judiciary Law, in that Respondent failed to uphold the integrity and independence of the judiciary by failing to maintain high standards of conduct so that the

integrity and independence of the judiciary would be preserved, in violation of Section 100.1 of the Rules; failed to avoid impropriety and the appearance of impropriety, in that he failed to respect and comply with the law and failed to act in a manner that promotes public confidence in the integrity and impartiality of the judiciary, in violation of Section 100.2(A) of the Rules; and failed to perform the duties of judicial office impartially and diligently, in that he failed to be dignified, in violation of Section 100.3(B)(3) of the Rules, and initiated or permitted *ex parte* communications concerning a pending proceeding, in violation of Section 100.3(B)(6) of the Rules.

CHARGE VII

89. In or about June 2013, Respondent engaged in an improper *ex parte* conversation with the defendant in *People v E* [REDACTED] *M* [REDACTED] about the circumstances underlying the defendant's alleged violation of his drug court agreement.

Specifications to Charge VII

90. On or about May 29, 2013, defendant E [REDACTED] M [REDACTED] pled guilty to charges of Resisting Arrest and Criminal Possession of a Controlled Substance in the seventh degree in exchange for a sentence of 24 months in Albany County Jail, with such sentence suspended upon the condition he successfully completed the Albany Regional Drug Court Program.

91. On or about June 19, 2013, the defendant appeared before Respondent. The transcript of the court appearance is annexed as Exhibit 9.

92. Respondent asked the defendant why he was in court, and the defendant responded, "Because I missed a whole week of treatment." Following a discussion about the reason for the defendant's absence from treatment, the defendant also admitted he "had a little relapse with marijuana." Respondent thanked the defendant and told him to have a seat.

93. Shortly thereafter, Respondent called the defendant back in front of him and announced that the defendant had also tested positive for crack cocaine. Respondent stated that he was sanctioning the defendant and remanded him to jail for one week. Respondent expressed doubt about the defendant remaining in the drug court program.

94. Approximately a few hours later, Respondent entered the Albany Police Department booking room where the defendant was sitting on a bench in leg cuffs. In response to something the defendant said, Respondent stated, in sum or substance, "What are you apologizing for?", "You can do one puff but not two," and "What about the crack cocaine?" The defendant answered, "It was mixed with coke. I don't know." The conversation ended when Respondent answered a call on his cell phone and stepped out of the booking room, telling the defendant he would see him on Friday.

95. By reason of the foregoing, Respondent should be disciplined for cause, pursuant to Article 6, Section 22, subdivision (a), of the Constitution and Section 44, subdivision 1, of the Judiciary Law, in that Respondent failed to uphold the integrity and independence of the judiciary by failing to maintain high standards of conduct so that the integrity and independence of the judiciary would be preserved, in violation of Section 100.1 of the Rules; failed to avoid impropriety and the appearance of impropriety, in that

he failed to respect and comply with the law and failed to act in a manner that promotes public confidence in the integrity and impartiality of the judiciary, in violation of Section 100.2(A) of the Rules; and failed to perform the duties of judicial office impartially and diligently, in that he initiated or permitted *ex parte* communications concerning a pending proceeding, in violation of Section 100.3(B)(6) of the Rules.

CHARGE VIII

96. In or about October 2009, in connection with *People v K [REDACTED] B [REDACTED]*, Respondent engaged in an improper *ex parte* conversation with a representative of the victim of the defendant's alleged crime, and asked the representative to reduce the amount of restitution sought from the defendant.

Specifications to Charge VIII

97. On or about April 21, 2009, K [REDACTED] B [REDACTED] was charged with Criminal Mischief in the Fourth Degree, in violation of Penal Law § 145.00(1), arising from an incident in which she allegedly damaged a door at the Equinox, Inc., Community Services Agency ("Equinox").

98. Equinox was seeking restitution from the defendant in the amount of approximately \$700 to replace the damaged door. At all times relative herein, Mary M. Seeley was the Executive Director of Equinox.

99. On or about October 9, 2009, Respondent called Ms. Seeley on the telephone. Respondent told Ms. Seeley, in sum or substance, that his court calendar was very busy and that he was trying to clear cases from his docket. Respondent informed

Ms. Seeley that he had just been to Equinox and inspected the door allegedly damaged by the defendant K■■■■ B■■■. Respondent asked Ms. Seeley if the door could be repaired, rather than replaced, and if she, as Executive Director of Equinox, would reduce the amount of restitution sought by Equinox against the defendant for the damage to the door.

100. Later that day, Ms. Seeley faxed a letter to Assistant District Attorney Matthew Hauf stating, "After speaking with Judge Thomas Keefe today, Equinox, Inc. has agreed to reduce the restoration amount due to us...from \$760 to \$50."

101. Respondent provided no notice to Mr. Hauf or the defendant's attorney, Ms. Leisenfelder, of his conversation with Ms. Seeley, nor did he advise them of it afterwards.

102. By letter dated March 8, 2010, Respondent notified Mickey Cleary of the Third Judicial District Administrative Office that he had recused himself from B■■■.

103. By reason of the foregoing, Respondent should be disciplined for cause, pursuant to Article 6, Section 22, subdivision (a), of the Constitution and Section 44, subdivision 1, of the Judiciary Law, in that Respondent failed to uphold the integrity and independence of the judiciary by failing to maintain high standards of conduct so that the integrity and independence of the judiciary would be preserved, in violation of Section 100.1 of the Rules; failed to avoid impropriety and the appearance of impropriety, in that he failed to respect and comply with the law and failed to act in a manner that promotes public confidence in the integrity and impartiality of the judiciary, in violation of Section 100.2(A) of the Rules; and failed to perform the duties of judicial office impartially and

diligently, in that he failed to accord to every person who has a legal interest in a proceeding the right to be heard according to law and initiated or permitted *ex parte* communications concerning a pending proceeding, in violation of Section 100.3(B)(6) of the Rules.

CHARGE IX

104. From in or about March 2012 through about April 2013, in connection with *People v P* [REDACTED] *C* [REDACTED], Respondent engaged in improper *ex parte* communications with the defendant's mother, *S* [REDACTED] *C* [REDACTED], who was the alleged victim of the crimes.

Specifications to Charge IX

105. In or about February 2012, *P* [REDACTED] *C* [REDACTED] was charged with Robbery in the Third Degree, in violation of Penal Law § 160.05, and Petit Larceny, in violation of Penal Law § 155.25, arising from two separate domestic incidents in which his mother, *S* [REDACTED] *C* [REDACTED], was the alleged victim. On or about February 23, 2012, Respondent issued a temporary order of protection which directed the defendant to stay away from and refrain from contact with Ms. *C* [REDACTED].

106. On or about February 28, 2012, Albany City Court Judge William Carter issued a temporary order of protection which directed the defendant to refrain from contact with Ms. *C* [REDACTED].

107. On or about September 16, 2012, the defendant was charged with Assault in the Third Degree, in violation of Penal Law § 120.00(1), arising from another domestic incident in which Ms. *C* [REDACTED] was the alleged victim.

108. On or about September 20, 2012, Respondent issued a temporary order of protection which directed the defendant to stay away from and refrain from contact with Ms. C [REDACTED].

109. From in or about March 2012 through about June 2012, on at least two occasions at court appearances in *People v P [REDACTED] C [REDACTED]*, Respondent asked Ms. C [REDACTED], who was present in the courtroom, to speak with him. Respondent led Ms. C [REDACTED] through a door behind his bench into an office or conference room.

110. On the first such occasion, Ms. C [REDACTED] met with Respondent alone. On at least one other occasion, Ms. C [REDACTED]'s husband, P [REDACTED] C [REDACTED], accompanied her.

111. During each conversation, Respondent and Ms. C [REDACTED] discussed the defendant's behavior and conduct.

112. Neither the defendant, defense counsel nor a prosecutor was present for these conversations.

113. Respondent provided no notice to the prosecutor or defense counsel of his conversations with Ms. C [REDACTED], nor did he advise them afterwards.

114. In or about June 2012, Ms. C [REDACTED] became unable to attend the defendant's court appearances.

115. From about June 2012 through about April 2013, on about four occasions Respondent spoke with Ms. C [REDACTED] on the telephone about the defendant's behavior.

116. Respondent did not advise either the prosecutor or defense counsel about these telephone conversations before or after they occurred.

117. By reason of the foregoing, Respondent should be disciplined for cause, pursuant to Article 6, Section 22, subdivision (a), of the Constitution and Section 44, subdivision 1, of the Judiciary Law, in that Respondent failed to uphold the integrity and independence of the judiciary by failing to maintain high standards of conduct so that the integrity and independence of the judiciary would be preserved, in violation of Section 100.1 of the Rules; failed to avoid impropriety and the appearance of impropriety, in that he failed to respect and comply with the law and failed to act in a manner that promotes public confidence in the integrity and impartiality of the judiciary, in violation of Section 100.2(A) of the Rules; and failed to perform the duties of judicial office impartially and diligently, in that he failed to accord to every person who has a legal interest in a proceeding the right to be heard according to law and initiated or considered *ex parte* or other improper communications made to the judge outside the presence of the parties or their lawyers concerning a pending proceeding, in violation of Section 100.3(B)(6) of the Rules.

CHARGE X

118. In or about April 2013, Respondent engaged in improper *ex parte* communications with a man who claimed to be relative or friend of a defendant in a case pending before Respondent, regarding the defendant's purported violation of her drug court agreement.

Specifications to Charge X

119. On or about August 15, 2012, Jordaine Marshall pled guilty to Criminal Possession of a Controlled Substance in the Seventh Degree, in violation of Penal Law

§ 220.03, in exchange for a sentence of 12 months in jail, with such sentence suspended upon the condition of successful completion of the Albany Regional Drug Court Program.

120. In or about April 2013, James Stokes came to the Albany City Court and asked to speak with Respondent about Ms. Marshall. Mr. Stokes identified himself as a family member or friend of Ms. Marshall.

121. On or about May 2, 2012, Albany City Court Judge William Carter had issued a temporary order of protection, pursuant to Criminal Procedure Law § 530.12, directing Mr. Stokes to refrain from contact with Ms. Marshall until May 3, 2013.

122. Respondent led Mr. Stokes and Albany Drug Court Coordinator Lawrence Colon to his office and closed the door.

123. Mr. Stokes told Respondent and Ms. Colon, *inter alia*, that Ms. Marshall had had a relapse in her treatment at a gathering after her mother's funeral. The conversation lasted approximately ten minutes.

124. On or about April 17, 2013, Ms. Marshall appeared in court, and Respondent issued a securing order remanding her into custody.

125. By reason of the foregoing, Respondent should be disciplined for cause, pursuant to Article 6, Section 22, subdivision (a), of the Constitution and Section 44, subdivision 1, of the Judiciary Law, in that Respondent failed to uphold the integrity and independence of the judiciary by failing to maintain high standards of conduct so that the integrity and independence of the judiciary would be preserved, in violation of Section 100.1 of the Rules; failed to avoid impropriety and the appearance of impropriety, in that

he failed to respect and comply with the law and failed to act in a manner that promotes public confidence in the integrity and impartiality of the judiciary, in violation of Section 100.2(A) of the Rules; and failed to perform the duties of judicial office impartially and diligently, in that he failed to accord to every person who has a legal interest in a proceeding the right to be heard according to law and permitted *ex parte* communications concerning a pending proceeding and initiated or considered other communications made to the judge outside the presence of the parties or their lawyers concerning a pending proceeding, in violation of Section 100.3(B)(6) of the Rules.

CHARGE XI

126. In or about August 2013, Respondent engaged in an improper *ex parte* conversation with defense counsel in *People v Tahir Lewis* concerning the pending proceeding.

Specifications to Charge XI

127. On or about July 29, 2013, Respondent convicted defendant Tahir Lewis, after a bench trial, of Unlawful Possession of Marihuana, in violation of Penal Law § 221.05, Obstructing Governmental Administration in the Second Degree, in violation of Penal Law § 195.05, and Resisting Arrest, in violation of Penal Law § 205.30. Respondent scheduled sentencing for September 19, 2013 and ordered a presentence investigation report.

128. Albany County Assistant Conflict Defender John D. Spencer represented the defendant.

129. On or about August 2, 2013, Respondent invited Albany County Conflict Defender Sherri Brooks and Mr. Spencer to have lunch with him.

130. On or about August 5, 2013, Respondent met Ms. Brooks and Mr. Spencer at a restaurant. Near the end of the lunch, Respondent raised the topic of the *Lewis* case, which he talked about for several minutes.

131. Respondent, in sum or substance, criticized the defense's rejection of the prosecution's plea offer to a violation. When Ms. Brooks commented that the defendant's choice was unfortunate because he was now facing jail time for a misdemeanor conviction, Respondent replied, in sum or substance, "But I'm the one who's going to sentence him."

132. In its presentence investigation report, the Probation Department recommended that the defendant be sentenced to a period of probation.

133. On or about October 31, 2013, the defendant appeared before Respondent for sentencing. Mr. Spencer requested that Respondent impose a sentence of a fine and surcharge with no period of probation. The prosecutor, Matthew Toporowski, requested that the defendant be sentenced to a period of probation. Respondent sentenced the defendant to a one-year conditional discharge and imposed a \$200 mandatory surcharge and \$100 in fees. Respondent imposed no period of probation.

134. Respondent did not disclose to the prosecutor his conversation with Ms. Brooks and Mr. Spencer about the *Lewis* case.

135. By reason of the foregoing, Respondent should be disciplined for cause, pursuant to Article 6, Section 22, subdivision (a), of the Constitution and Section 44,

subdivision 1, of the Judiciary Law, in that Respondent failed to uphold the integrity and independence of the judiciary by failing to maintain high standards of conduct so that the integrity and independence of the judiciary would be preserved, in violation of Section 100.1 of the Rules; failed to avoid impropriety and the appearance of impropriety, in that he failed to respect and comply with the law and failed to act in a manner that promotes public confidence in the integrity and impartiality of the judiciary, in violation of Section 100.2(A) of the Rules, and conveyed the impression that defense counsel was in a special position to influence the judge, in violation of Section 100.2(C) of the Rules; and failed to perform the duties of judicial office impartially and diligently, in that he initiated, permitted or considered *ex parte* communications concerning a pending proceeding, in violation of Section 100.3(B)(6) of the Rules.

CHARGE XII

136. In or about May 2013, in *People v Elizabeth Santos*, Respondent directed the defendant not to communicate with her attorney, in violation of the defendant's right to counsel pursuant to Article I, Section 6 of the Constitution of the State of New York and the Sixth Amendment of the United States Constitution, and remanded the defendant to jail for one week for calling her attorney.

Specifications to Charge XII

137. On or about May 7, 2012, Elizabeth Santos was charged with Petit Larceny, in violation of Penal Law § 155.25. In or about January 2013, the defendant

pled guilty to the charge and was sentenced to a conditional discharge with a condition of no new arrests.

138. On or about January 30, 2013, the defendant was charged with Criminally Possessing a Hypodermic Instrument, in violation of Penal Law § 220.45. On or about February 17, 2013, the defendant was charged with Criminal Possession of Stolen Property in the Fifth Degree, in violation of Penal Law § 165.40 and Petit Larceny, in violation of Penal Law § 155.25. On or about April 24, 2013, the defendant was charged with Criminal Possession of a Controlled Substance in the Seventh Degree, in violation of Penal Law § 220.03.

139. On or about May 8, 2013, the defendant appeared before Respondent. The transcript of the court appearance is annexed as Exhibit 10. After confirming that the defendant had appeared in court the previous week, Respondent stated: “And we rolled it over to this week and I very, very specifically told you not to bug your lawyers but you’ve made no . . . paid no attention to me, so, therefore we’re going to send you back and I’m going to have a conversation with you next week if you can go a week without calling your lawyers. Okay? Bye.”

140. On or about May 15, 2013, the defendant appeared before Respondent. The transcript of the court appearance is annexed as Exhibit 10. Respondent thanked the defendant and stated, “I abruptly sent you back to jail last week with instructions not to call your lawyer during the week, right, which is a complete violation of your Constitutional rights.”

141. Respondent continued: "Last week you were here and I abruptly sent you back to jail to come back for a week, right, with the instructions again to not call your lawyer during the week, right? . . . And you did that. You've not called your lawyer during the week. Thank you, very much . . . Now, I also put on the record that a judge telling a defendant that they're going to jail, and I'm prohibiting you from calling your lawyer, is a violation of your Constitutional rights, okay? . . . It's outrageous."

142. Later during the proceeding, Respondent told the defendant that he had intended to discuss her option to participate in the drug court program at her prior week's appearance, "except for the fact you violated my rules by calling your lawyer's office every single day, multiple times during the day, after I told you you weren't allowed to call your lawyer's office. So, we rolled it over another week."

143. At the end of the proceeding, the defendant asked, "I got to go back to jail?" Respondent replied, "Absolutely. You didn't have to if you had been able to do...follow my directions last week."

144. By reason of the foregoing, Respondent should be disciplined for cause, pursuant to Article 6, Section 22, subdivision (a), of the Constitution and Section 44, subdivision 1, of the Judiciary Law, in that Respondent failed to uphold the integrity and independence of the judiciary by failing to maintain high standards of conduct so that the integrity and independence of the judiciary would be preserved, in violation of Section 100.1 of the Rules; and failed to avoid impropriety and the appearance of impropriety, in that he failed to respect and comply with the law and failed to act in a manner that

promotes public confidence in the integrity and impartiality of the judiciary, in violation of Section 100.2(A) of the Rules.

CHARGE XIII

145. In or about August 2013, while presiding over *People v J [REDACTED] H [REDACTED]*, Respondent made undignified and discourteous comments to the defendant, who was participating in the Veterans Treatment Court/Track.

Specifications to Charge XIII

146. On or about August 22, 2013, J [REDACTED] H [REDACTED] appeared before Respondent as part of the Veterans Treatment Court/Track program. The transcript of the court appearance is annexed as Exhibit 11.

147. During the course of a discussion about whether the defendant had tested positive for marihuana, Respondent stated, "I am trying to be a generalized asshole and I'm pretty good at it, aren't I?"

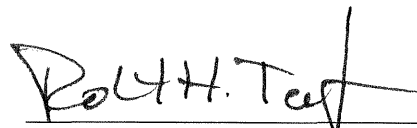
148. Later in the proceeding, Respondent raised the topic of the defendant's service in Iraq and asked the defendant if he had killed anybody. The defendant replied that he did not want to talk about that.

149. Respondent continued by asking the defendant if had killed anyone in Albany within the preceding week. When the defendant answered in the negative, Respondent stated, "Okay. Good. So, if you had killed somebody, that would be really bad. If, in fact, you smoked marijuana in the last week, who the hell cares, right? Who the hell cares?"

150. By reason of the foregoing, Respondent should be disciplined for cause, pursuant to Article 6, Section 22, subdivision (a), of the Constitution and Section 44, subdivision 1, of the Judiciary Law, in that Respondent failed to uphold the integrity and independence of the judiciary by failing to maintain high standards of conduct so that the integrity and independence of the judiciary would be preserved, in violation of Section 100.1 of the Rules; failed to avoid impropriety and the appearance of impropriety, in that he failed to respect and comply with the law and failed to act in a manner that promotes public confidence in the integrity and impartiality of the judiciary, in violation of Section 100.2(A) of the Rules; and failed to perform the duties of judicial office impartially and diligently, in that he failed to be dignified and courteous, in violation of Section 100.3(B)(3) of the Rules.

WHEREFORE, by reason of the foregoing, the Commission should take whatever further action it deems appropriate in accordance with its powers under the Constitution and the Judiciary Law of the State of New York.

Dated: November 13, 2014
New York, New York



ROBERT H. TEMBECKJIAN
Administrator and Counsel
State Commission on Judicial Conduct
61 Broadway
Suite 1200
New York, New York 10006
(646) 386-4800

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

In the Matter of the Proceeding
Pursuant to Section 44, subdivision 4,
of the Judiciary Law in Relation to

VERIFICATION

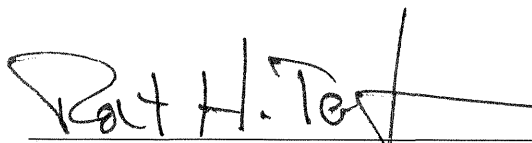
THOMAS K. KEEFE,

a Judge of the Albany City Court,
Albany County.

STATE OF NEW YORK)
 : ss.:
COUNTY OF NEW YORK)

ROBERT H. TEMBECKJIAN, being duly sworn, deposes and says:

1. I am the Administrator of the State Commission on Judicial Conduct.
2. I have read the foregoing Formal Written Complaint and, upon information and belief, all matters stated therein are true.
3. The basis for said information and belief is the files and records of the State Commission on Judicial Conduct.



Robert H. Tembeckjian

Sworn to before me this
13th day of November 2014



Notary Public

LATASHA Y. JOHNSON
Notary Public, State of New York
No. 01JO6235579
Qualified in New York County
Commission Expires Feb 14, 2015

STATE OF NEW YORK
CITY COURT

COUNTY OF ALBANY
CRIMINAL PART

PEOPLE OF THE STATE OF NEW YORK,

-against-

Docket# 11-209951

JOSEPH REIMANN,

Respondent.

Albany City Court
Criminal Part
One Morton Avenue
Albany, NY 12202
March 8, 2012

BEFORE: HONORABLE THOMAS K. KEEFE
City Court Judge

APPEARANCES: ALBANY COUNTY DISTRICT ATTORNEY'S OFFICE
6 Lodge Street
Albany, New York 12207
On behalf of the People;
BY: TRACY CHANCE, ESQ.

ACKERMAN, WACHS, & FINTON
90 State Street, Suite 911
Albany, New York 12207
On behalf of the Defendant;
BY: JUSTIN DEARMAS, ESQ.

The Defendant, In Person

RECEIVED

MAY 10 2012

**ALBANY CITY COURT
CRIMINAL PART**

TRANSCRIBED FROM DIGITAL RECORDING BY: SHANNON SWART

1 THE COURT: Mr. Dearmas? Joe Reimann?

2 MR. DEARMAS: We were going to conference this.

3 THE COURT: We were? When you say we were going to
4 conference, you mean you -- the three of us? Okay. Is that what
5 you'd like to do?

6 MR. DEARMAS: Yes, please.

7 THE COURT: Very good. Step in the back.

8 (A recess was taken in the proceedings.)

9 THE COURT: This is the matter of Joseph Reimann. Mr.
10 Dearmas is here, Ms. Chance is here. There's a a proposal to
11 reduce this from a felony to a misdemeanor, and then to take a plea
12 to a misdemeanor.

13 I'm so pissed off. Un-fucking-believable. I'm not
14 supposed to swear on the record, but Jesus Christ, if other people
15 can work out these ridiculous arrangements up in the county without
16 a judge involved and then come down here and effectively blackmail
17 me down here relative to doing something that I do not want to do,
18 because I don't even know why in the world we're thinking about
19 doing this based on all of the circumstances, and based on the fact
20 that I've been here for over nine years and so I have the
21 perspective of being able to see all kinds of cases . . . all kinds
22 of cases resolved completely differently, right?

23 But here's what I'm told from the district attorney's
24 office, that if I don't go along with this they intend to indict
25 you and have you convicted of a felony, okay? And these are, you

1 know, these are -- we're talking here about . . . this is driving
2 with a suspended driver's license, suspensions from years ago,
3 suspensions that have now been cleared up, so, yeah, I'll accept
4 it, but the district attorney's office should be absolutely ashamed
5 of themselves.

6 But, go ahead, make your motion and I'll accept it.

7 MS. CHANCE: I'm willing to reduce the AUO First to AUO
8 Second in violation of Section 511(2)(5) of the VTL, class A
9 misdemeanor.

10 THE COURT: On the motion to reduce the felony to a
11 misdemeanor, I'm going to grant the motion, note the 180.50
12 inquiry's been made, direct the prosecutor -- I don't know . . . do
13 you have a prosecutor's information? Do you have one? If you have
14 one I'll direct the filing of one; if you don't have one, we'll do
15 something else.

16 MS. CHANCE: I don't have a copy of one.

17 MR. DEARMAS: We'll enter a not guilty plea and waive a
18 formal reading.

19 MS. CHANCE: Judge, the People are handing up to the
20 Court, I have a --

21 THE COURT: I understand what you're saying. Thank you.
22 Okay. Now, proposal?

23 MS. CHANCE: The offer is a plea to the AUO Second, three
24 years probation, with a \$500 fine.

25 THE COURT: Mr. Dearmas?

1 MR. DEARMAS: That's the offer that I understand.

2 THE COURT: Okay. What are we doing?

3 MR. DEARMAS: He's going to enter the plea today.

4 THE COURT: Sir?

5 MR. DEARMAS: Could we get a recall, your Honor?

6 THE COURT: Sure.. Absolutely.

7 (A recess was taken in the proceedings.)

8 THE COURT: Reimann. Back on the matter of Reimann.

9 Boy, I almost -- or maybe I did screw things up again,
10 huh?

11 MR. DEARMAS: No.

12 THE COURT: Where do we stand?

13 MR. DEARMAS: He's going to go forward with the proposed
14 plea bargain.

15 THE COURT: Okay. Well, I came close. Okay.

16 But in any case, that wasn't my intent, sir. My intent
17 was just to express my personal chagrin.

18 But I repeatedly told defense attorneys, by the way, Mr.
19 Dearmas, that it is not my intention to ruin people's lives in any
20 case, so

21 Sir, you understand the proposal?

22 JOSEPH REIMANN: Yes.

23 THE COURT: And any questions for Mr. Dearmas?

24 JOSEPH REIMANN: No.

25 THE COURT: Any questions for me?

1 JOSEPH REIMANN: No.

2 THE COURT: You understand you have a right to a jury
3 trial, and by entering into this agreement you're waiving a trial
4 on the charge of Aggravated Unlicensed Operation of a Motor
5 Vehicle, a misdemeanor violation of Section 511(2)(5) of the
6 Vehicle and Traffic Law, in the City of Albany on July 29th of last
7 year. How do you plead?

8 JOSEPH REIMANN: Guilty.

9 THE COURT: The Court will accept your plea.
10 We're going to roll this over for sentencing for eight
11 weeks. What's your address, sir?

12 JOSEPH REIMANN: [REDACTED], that's 12203,
13 Albany.

14 THE COURT: Need your phone number.

15 JOSEPH REIMANN: [REDACTED].

16 THE COURT: And, okay, so we're going to roll this over
17 to May 1st. Can we do that? Tuesday, May 1st?

18 MR. DEARMAS: Sure.

19 THE COURT: And I don't have a probation officer for you
20 to see at this time. You're going to get a letter from probation
21 about coming and seeing them, and . . . and when you come back here
22 on May 1st, we will sentence you pursuant to the plea bargain
23 agreement.

24 There are some conditions attached: Condition number one
25 is that you cooperate with probation relative to helping them

1 create a presentence report; condition number two is you not get
2 arrested between now and then; and condition number three is you
3 show up that day. You do all of those things I'll enter -- we'll
4 follow through on the plea bargain agreement. You understand if
5 you fail to do any one of those things then I don't have to keep my
6 agreement, all right? See you then. Thank you.

7 MR. DEARMAS: Thank you.

8 (Whereupon, the proceedings held in the
9 above-entitled matter were concluded.)

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C E R T I F I C A T I O N

I, SHANNON SWART, certify that the foregoing transcript of proceedings in the Albany City Court of The People of the State of New York v. Joseph Reimann, Docket No. 11-209951 was prepared using the required transcription equipment and is a true and accurate record of the proceedings.

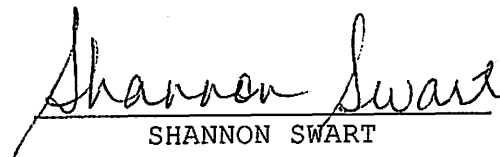

SHANNON SWART

EXHIBIT 2

Transcript of Proceedings in Matter of *People v Dennis McFadden*
held February 28, 2013 (14:34:35 to 14:39:00)
Matter of Hon. Thomas K. Keefe, a judge of the
Albany City Court, Albany County.

(People v Dennis McFadden)

1	Judge Keefe:	Mr. Jurena.
2	Mr. Jurena:	Judge, how are you today?
3	Judge Keefe:	Good. How are you?
4	Mr. Jurena:	Good. We don't have the file on this gentleman
5		whom we are talking about today. (Unintelligible.)
6		Dennis McFadden. Are you familiar with him?
7	Judge Keefe:	Whoa, whoa, whoa. Yeah, yeah, yeah, yeah.
8	Mr. Jurena:	He was charged with a felony.
9	Judge Keefe:	Yeah, yeah, yeah, yeah.
10	Mr. Jurena:	People versus--
11	Judge Keefe:	--Did he get indicted?
12	Mr. Jurena:	They were about to indict him and (unintelligible)
13		state prison time--
14	Judge Keefe:	--I got this message from Matt Hauf, sort of
15		chuckling. "I just want to give you news that your
16		friend, McFadden, I am presenting to the grand jury,
17		hahahaha."
18	Mr. Jurena:	He's not joking. So, I understand where you're
19		coming from, I think--
20	Judge Keefe:	--Yeah.
21	Mr. Jurena:	--but the man wants to resolve this case and I don't
22		want to subject you to a potential felony because he
23		can't resolve his case that he wants to resolve and
24		plead guilty to which he is right, but--
25	Judge Keefe:	--Well, yeah, does he have a ... I can take the guilty

1 plea. Do I have to take a guilty plea without ... Do
2 they ... well, yeah but, I mean, when you say "has a
3 right" what's the ... He can always plead guilty--
4 Mr. Jurena: --Right, but--
5 Judge Keefe: --but the problem is he's not facing ... He's facing a
6 felony. So, in order to plead guilty to a
7 misdemeanor--
8 Mr. Jurena: --Right.
9 Judge Keefe: --there has to be a plea bargain agreement.
10 Mr. Jurena: There is.
11 Judge Keefe: Yeah, but I have to ... Don't I get a role here?
12 Mr. Jurena: You do.
13 Judge Keefe: You're saying I don't have any role?
14 Mr. Jurena: I guess I need to know ... as they say in action films,
15 what is your motivation?
16 Judge Keefe: Well, that's going to be--
17 Mr. Jurena: --What is your motivation? Are you looking to
18 perhaps spare the man--
19 Judge Keefe: --Well, I don't remember ... I don't remember the
20 details.
21 Mr. Jurena: I'm told--
22 Judge Keefe: --Okay. I don't remember the details so why don't
23 you fill me in? What's the ... What is ... What
24 would be the plea to? What charge?
25 Mr. Jurena: Possession of stolen property in the fourth.

1 Judge Keefe: Okay. Oh. This is the wallet found on the street.
2 Mr. Jurena: The wallet. Correct.
3 Judge Keefe: Okay. And he has a statement. He made a
4 statement.
5 Mr. Jurena: That he had the wallet.
6 Judge Keefe: That he found the wallet.
7 Mr. Jurena: Right.
8 Judge Keefe: He didn't know what it was. He found it. He
9 brought it home and he looked at it.
10 Mr. Jurena: He basically kept for a little too--
11 Judge Keefe: --He put it in his mailbox or milk box--
12 Mr. Jurena: --longer than he perhaps should have I think is the
13 case.
14 Judge Keefe: Okay. So, how does that constitute a knowing
15 possession of stolen property?
16 Ms. Grome: I have the case law on that and I will find it for you.
17 Mr. Jurena: Well, let me ask you this.
18 Judge Keefe: Yeah.
19 Mr. Jurena: The man wants to plead guilty on a plea bargain
20 which calls for time served so that he doesn't get
21 subjected to a felony prosecution for which he could
22 possibly go to prison for two to four years if some
23 jury who is not as smart as we all are could look at it
24 and say, "The man who had the wallet and it wasn't
25 his, it was reported stolen, he should have known."

1 Judge Keefe: I hear you. I hear you and I, you know, I have crying
2 defendants in my courtroom. I try to tell them,
3 "Look, I'm very sorry. I am not trying to ruin your
4 life." I didn't ... He wasn't even in here, in the
5 courtroom, right?

6 Mr. Jurena: No.

7 Judge Keefe: "I'm not trying to ruin your life, but I, generally
8 speaking, don't take pleas to situations because I am
9 being threatened by the district attorney that they are
10 going to send someone to prison, someone who
11 they've already sent an *ex parte* motion to a county
12 court judge saying, "This is appropriate to reduce as
13 a misdemeanor," and now they're basically saying,
14 "If Keefe doesn't get off his whatever, we're going
15 to show him." Not to mention they leave a message
16 on my phone cackling about it, right? So, generally,
17 I don't do that. And having said it, my role ... my
18 goal is certainly not to reduce to ruin Mr.
19 McFadden's life.

20 Mr. Jurena: I mean, I get ... I get where you're coming from.

21 Judge Keefe: Right. Right.

22 Mr. Jurena: I get where you're coming from.

23 Judge Keefe: So, the bottom line is generally, you know, here is ...
24 this happens all the time, right?

25 Mr. Jurena: So I'm hearing.

1 Judge Keefe: Well, okay, this happens all the time but, in general,
2 all the time, I have circumstances where people want
3 to plea for all kinds of reasons. Right? Like, they
4 want to get out of jail. Your guy is not in jail, right?
5 Mr. Jurena: No. He was in jail for 45 days.
6 Judge Keefe: Right. But they want to get out of jail and, so, they
7 are willing to plead to anything--
8 Mr. Jurena: --To accomplish that--
9 Judge Keefe: The truth or the real situation they could care less
10 about, right? They just want out of jail and, so,
11 therefore, they're willing to plea, right? Or they're
12 just tired of coming into court. "I can't take any
13 more time off from work so I didn't do anything here
14 but, Judge, I am going to take the plea bargain
15 offer." Okay. Well, sorry, I don't ... "I am not
16 taking a plea bargain offer just because you don't ...
17 Well, you don't have to come back to court, right?
18 We'll head towards trial and you just come back for
19 your trial, but I am not taking the plea." Now, listen,
20 I realize I am a pain in the fucking ass. I realize I am
21 driving people crazy. I'm sorry. I don't give a
22 damn. Okay, so, having said it, my goal, though,
23 isn't to ruin his life.
24 Mr. Jurena: Okay. Unfortunately, that would be the net effect of
25 doing what you are doing by not accepting, you

1 know.

2 Judge Keefe: When is the grand jury?

3 Mr. Jurena: I am thinking March 15th.

4 Ms. Grome: I think that's right.

5 Mr. Jurena: March 15th.

6 Ms. Grome: I mean, I just want to draw your attention to there is

7 a lost property section on the grand larceny charge

8 that basically states that that is a crime. So, I knew

9 you had some issues. I'm concerned about that.

10 Judge Keefe: Well, listen. Well, listen, there is some concern

11 about that. What is ... Listen, I will be happy to look

12 at the section of law, okay? So, is it, like, if I find

13 property, is there, like, a time limit? Well, here is the

14 thing, is my recollection is that there needs to be a

15 *mens rea*.

16 Mr. Jurena: And if is willing to admit that there is a *mens rea*.

17 Judge Keefe: Oh, that would certainly make it easier for me but, as

18 I said in the conference that I had with I don't know

19 who, I don't know anything about this file. I am

20 asked to take a plea bargain offer. No one in front of

21 me knows anything about the file. So, I go through

22 the file and I find his statement.

23 Mr. Jurena: Which, you know, defendants give statements

24 exculpating themselves all the time. I mean,

25 subsequent learn that some of them might learn that,

1 you know, perhaps what they said was not right and
2 they remembered it wrong when they said it and now
3 they remember something different.
4 Judge Keefe: Well, here is ... I think here is what we got planned
5 then. You are going to speak to Mr. McFadden.
6 Okay? Mr. McFadden can ... We can schedule this
7 thing for whenever you want. Mr. McFadden is
8 going to come in and you are going to tell me that he
9 is prepared to plea and allocute, and he is going to
10 say that ... I mean, again, he is going to say
11 something that meets the level of a crime, which
12 included that ... Not that he ... that he ...
13 Essentially, that he never intended to give it back
14 because I think that, based on his statement, if true, I
15 don't think there's a crime here. Now, I am not
16 saying his statement is true but the thing is, if he
17 wants to come in here and say, "That was not the
18 truth, that I never intended to give it back, I knew
19 that it was not my property," listen, I don't know ...
20 I'm not going to ... I don't need a big allocution, but
21 I am looking for someone to tell me that, in fact, he
22 knowingly committed a ... you know, committed a
23 crime. So, that ... I mean, you get ... I am not going
24 to parse through what you've done or what he's done
25 but I'm telling you, I don't take ... I mean, the thing

1 is I can't tell you exactly what I would do if they
2 continue this chicken ... March 14th? But today is
3 February 28th, right? So, you know ... So, I am
4 going to ... This would be the very first time, and
5 maybe I'm exaggerating, but I don't remember ...
6 Listen. Listen. They've made this threat to me
7 dozens of times, including in writing. Right? I have
8 a two-page letter from Dave Rossi laying out, to
9 Jimmy Milstein on a particular case, "If you do not
10 get Judge Keefe to do this, we will indict this
11 person."
12 Mr. Jurena: Yeah, I got to believe there is something wrong with
13 that. Right. I do.
14 Ms. Grome: Well, Judge, with respect to this particular case,
15 we've met three different times. I have given you ...
16 I have read a memo on the record of reasons why my
17 side ... why the DA's office was giving the offer, the
18 reasoning behind our offer, and I can't ... It's not my
19 job to have the defendant say, "Oh, I am guilty. I
20 have a *mens rea*." So, I just want to make that clear
21 and, you know--
22 Judge Keefe: Well, listen, I am not ... I apologize if you think
23 anything that I am saying here was directed at you.
24 Ms. Grome: I know. I hope not. It's just ... I mean, I've been
25 trying to move forward on this plea.

1 Judge Keefe: Nothing I am saying here ... Unless ... Unless you
2 run the district attorney's office, right? Unless
3 somehow you are the supervisor of Dave Rossi,
4 right, then I can't ... Listen, this is not about you. I
5 just ... Listen, all I am saying is ...
6 Mr. Jurena: --It's not about me either.
7 Judge Keefe: Listen. All I am saying is I think there is ...
8 Mr. Jurena: Well, I'll tell my client who I just want to get out and
9 (unintelligible) and what you got is a stip ...
10 Whatever. I mean ...
11 Judge Keefe: Listen. I am a big boy. I've practiced law for more
12 than 31 years. I'm not ... You know, it's not, like ...
13 It's not like I don't know what the world is like. It's
14 just, like, I'm not doing it anymore. Okay? Listen,
15 I'm not innocent here. I participated in this insane
16 system with my eyes closed, just like everybody else.
17 I'm not doing it anymore. I don't give a damn that
18 nobody likes it. I don't give a damn that it drives
19 people crazy. I'm just not doing it anymore. It has
20 nothing to do with you. Nothing to do with you,
21 okay? And having said it ... Having said it ... So, I
22 do not know who ... whether I will blink first or not,
23 okay? On the thing about, you know ... But there is
24 something wrong with a prosecutor, and I'm not
25 talking about you, who says, "Judge, this is ... case

1 is more appropriate as a misdemeanor. Therefore,
2 we are asking you to sign this *ex parte* order sending
3 it back down to the county court ... city court." No
4 other details. No other nothing. No other, "We
5 think because of the nature of x, y and z, you know,
6 and while we believe we could prosecute and convict
7 on a felony, you know, under x, y and z
8 circumstances" ... No, an *ex parte* application
9 saying, "more appropriate as a misdemeanor." Then
10 it comes down here and say, "We will only do this
11 misdemeanor, Judge, if you say yes to a plea bargain
12 proposal," right? And then when I say I need to
13 know something about this case people are, like,
14 "What? What do you need to know about the case?"
15 Well, the judge who signed the order didn't know
16 anything about the case, right? So, the bottom line is
17 I'm sorry. I have a person who is innocent until
18 proven guilty, a person who has made a statement
19 that, in my opinion, if true, would make him
20 innocent, in my opinion, but I am the ... I am the
21 judge and we are ... everyone is asking to turn the
22 system upside down, not have juries decide whether
23 the person is guilty, but have me decide. Actually, I
24 understand. Nobody wants me to decide. Nobody
25 wants me to even look at this case. Sorry. So, the

1 bottom line the guy comes in and says, "Judge
2 You know, effectively, I knew what I was doing
3 when I did it and I knew it was wrong, and I knew if
4 I got caught I could be prosecuted because, you
5 know, this was not the right thing to do." I'll take
6 something like that because that's an admission of
7 guilt. Now if, in the course of that, he hints that he's
8 just doing it for some other reason, I am going to say,
9 "Sorry. You've screwed up because I" ... I am
10 willing to play the game that people come in here
11 and tell me bold-faced lies but if they hint that they
12 are ... Now, listen ... And the bottom line is I
13 understand that ... Listen, I understand. I practiced
14 law. I had clients. I know that they don't tell the
15 truth, okay? So, the bottom line is, and what I am
16 saying that I understand that he may truthfully be
17 bold-faced guilty and that that original statement
18 may be just his crazy way of trying to, you know,
19 "Let me admit whatever I want to admit," right?
20 Obviously, you should have shut up in a certain
21 sense but the bottom line is, you know, I am not even
22 going to pretend ... When I say "pretend," I don't
23 mean that I am going to sit here and say, "I know this
24 guy is lying to me, but I am going to pretend." I
25 don't know when ... who ... when persons are lying

1 or not. If he comes in here and he tells me he is
2 guilty, but he's got to use more than that word,
3 "guilty," because he has to indicate that at the
4 moment he was doing it or at the moment he was
5 keeping it, that he knew that he was doing something
6 wrong. But that ... what he said was that he had
7 every intention of giving it back, but he put it
8 somewhere and forgot about it, right? That's what
9 he said, and I don't think constitutes a crime.
10 Ms. Grome: I just don't want--
11 Judge Keefe: --If true, I don't think it constitutes a crime.
12 Mr. Jurena: More importantly, if true and believed by a jury,
13 okay ... if true and believed by a jury.
14 Judge Keefe: My point exactly. My point exactly. My point
15 exactly.
16 Mr. Jurena: But--
17 Judge Keefe: --And the bottom line is I think that's the way the
18 system is supposed to work. You are asking me to
19 circumvent the system and now I am being
20 threatened by the district attorney's office that I am
21 ruining McFadden's life if I don't do something
22 here. And I would be more concerned about it if this
23 was the first time that they have threatened me.
24 They have threatened me dozens of times in the past
25 two or three years. I am not aware of a single

1 indictment. I am not aware of a single indictment.
2 So, the problem with idle threats is, I guess ... And,
3 listen, I know Matt Hauf. Matt Hauf was with me
4 for two and a half years. He's great. I love Matt
5 Hauf. He's ... He doesn't fake, right? So, he is
6 probably completely serious. And the problem is
7 that ... So, I am not ... You know, Matt Hauf has
8 never threatened me before relative to one of these
9 so, listen, I don't know what I'll do because I very
10 well might blink with Matt Hauf. You can solve the
11 problem by having the guy come in and tell me he's
12 guilty.

13 Mr. Jurena: Okay, then. I appreciate it. Thanks, Judge.

14 Ms. Grome: Again--

15 Judge Keefe: --You know, and there are ways of manipulating the
16 system, you know. You can advise your clients to
17 get arrested when I am not on duty. It would all
18 make things a lot easier. You'd be surprised.

19 Mr. Jurena: Thanks, Judge.
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Dated: December 10, 2013

Lisa Savaria

EXHIBIT 3

Transcript of Proceedings in Matter of *People v. Florence Shultis* held
June 25, 2012 (10:34:41-10:44:19)
Matter of Hon. Thomas K. Keefe, a Judge of the
Albany City Court, Albany County

(People v Florence Shultis)

1 Judge Keefe: Okay. So, this is the *Matter of Florence Shultis*. Ms.
2 Girard is here. Ms. Corbitt is here. We had just had a
3 conversation in the back room. Half of the conversation
4 was about this matter and half the conversation was about a
5 completely different file. Ms. Shultis, hello. How are you
6 doing today? So, thank you for coming back and we're
7 going to give you an opportunity to talk to your lawyer.
8 We're going to roll this over for another day. I am sorry for
9 that. I know that your lawyer has informed me that you're
10 prepared to go forward and I've read the whole evaluation
11 which I think is lengthy. I assume you've seen it? The
12 evaluation? Oh, great. Okay. Are we going to let her see
13 it? Okay. We're also going to let you see it. It's a lengthy
14 evaluation, all kinds of information in it. One of the
15 things...

16 Ms. Corbitt: (unintelligible)

17 Judge Keefe: One of the things in it is that you indicated to the people at
18 the [REDACTED], that you had been placed
19 on three years probation. Does that sound familiar?

20 Ms. Shultis: I misunderstood.

21 Judge Keefe: I can't hear you.

22 Ms. Shultis: I misunderstood. I'm really sorry.

23 Judge Keefe: Okay. No, that's ... You don't have to be sorry about that.

24 Ms. Shultis: I mean, I tried to explain to the RUS and she must have
25 just--

(People v Florence Shultis)

1 Judge Keefe: --Okay. That's fine. I didn't ... I couldn't tell. That's why
2 I asked the question because I wasn't sure if you were
3 mistaken or if it was just a miscommunication, right? So, I
4 get that. Number one, you know, I want to make sure you
5 understand that my reluctance to say yes to this plea
6 proposal is not because I'm looking for harsher responses,
7 harsher things to happen. Because you are standing in front
8 of me, you know, most of the people standing in front of me
9 are under 25, right? And I'm way over 25--
10 Ms. Shultis: --Me too.
11 Judge Keefe: But the bottom line is, you're standing in front of me with
12 no criminal history. If we resolve this case today with the
13 proposal as it exists, then you'll have a criminal history for
14 the rest of your life. Do you understand that?
15 Ms. Shultis: Yeah.
16 Judge Keefe: Okay. And I read this thing that you've been having a hard
17 time finding employment.
18 Ms. Shultis: Yeah.
19 Judge Keefe: So, you know, having a criminal history is not going to
20 make that easier.
21 Ms. Shultis: Right.
22 Judge Keefe: Right? So, it's not ... It doesn't prohibit you from being
23 hired, right?
24 Ms. Shultis: Right.
25 Judge Keefe: There'd be a lot of ... A lot more unemployed people if

(People v Florence Shultis)

1 having a criminal history prohibited you from being
2 employed because we have a lot of people with criminal
3 histories in this country. So, you've agreed to do this
4 recommendation relative to this [REDACTED]?
5 Ms. Shultis: The [REDACTED]?
6 Judge Keefe: Yeah.
7 Ms. Shultis: Yes. Yes. Yes.
8 Judge Keefe: And as a matter of fact, you would have done it ... You
9 knew that you had some issues. You'd been involved in
10 some things, right, relative to [REDACTED].
11 Ms. Shultis: Yeah.
12 Judge Keefe: And through no fault of your own, you couldn't do it
13 anymore because of the state of our world relative to your
14 loss ... you didn't have insurance, right?
15 Ms. Shultis: Right. Yeah. Oh, yeah.
16 Judge Keefe: Whew. So, I'm not saying that I'm never going to say yes
17 to this, okay, and I certainly don't want to be responsible
18 despite what some people might think. I don't want to be
19 responsible for the resolution being worse than it is right
20 now and I will not participate in that happening. But,
21 nonetheless, and it's not that it's a horrible resolution, okay,
22 it's just that I'm not quite sure that you need to have a
23 criminal history for the rest of your life based on everything
24 that I've read here, right?
25 Ms. Shultis: Okay.

(People v Florence Shultis)

1 Judge Keefe: Number one. Number two is I don't want you to leave here
2 today believing you haven't been heard, okay? I'm not
3 kidding when I say that because I've read this and I've
4 heard what you've said, right? And I practiced law for 20
5 years before I came here and I've been here for almost 10
6 years and I certainly understand the ... you know, this issue
7 of being heard and how I don't think you're by yourself. I
8 don't think you're by yourself. As a matter of fact, there's a
9 former family court judge from Ulster County who now is
10 the chief judge of one quarter of the court system of the
11 State of New York and I just heard her speak at the
12 celebration for her being appointed that position a couple of
13 weeks ago, here, at the New York State Bar Association,
14 the Albany County Bar Association. And that's exactly
15 what the nature of her talk was. That we need to make sure,
16 the court system needs to make sure that people feel they've
17 been heard in the court system. That was the whole nature
18 of her whole talk. And that that is ... She told ... She said to
19 the 350 people there, that has always been my chief goal,
20 both as practicing law and as a family court judge and then
21 as a supreme court judge, and it's going to be my chief goal
22 as the chief administrative judge of the ... one quarter of the
23 state's court system. That it's extremely important that
24 people be heard. It's important to our democracy. It's
25 important to our belief that the whole system works and

(People v Florence Shultis)

1 means something, okay? So, having said that, just to make
2 it clear to anybody potentially listening to me, I don't care
3 what you think. And I'm not talking to you. I don't care
4 what you think, okay? I'm going to do my job as I see it
5 and if people don't like it, they should do something about
6 it instead of whining about it, right? So, the bottom line is,
7 I have all the time in the world. I'm running for re-election
8 unopposed. I'm going to be here for 10 years and if you
9 think that I've caused problems up to this moment, you
10 haven't seen anything yet. Thank you, very much. Hold
11 on. I'm not done. I'm going to have you talk to your
12 lawyer for a few moments. We're going to figure out a date
13 for you all to come back--

14 Ms. Girard: Can I be heard?

15 Judge Keefe: Then I ... Absolutely. As a matter of fact, nobody even has
16 to ask if they can be heard, okay? So, the bottom line is I'm
17 going to let anybody else right now, who's part of this case,
18 be heard and I'm going to let you all pick which is going to
19 go first. The DA or the defense attorney?

20 Ms. Corbitt: Go ahead.

21 Ms. Girard: Judge, I was just going to say that I'm going to talk to her
22 but I would propose an eight week date for her to engage in
23 [REDACTED] and progress a little bit and then come back to
24 see you with an update in approximately eight weeks.
25 That's what I'm going to talk to her about. Is that okay?

(People v Florence Shultis)

1 Judge Keefe: Yes.
2 Ms. Girard: With you?
3 Judge Keefe: Yes.
4 Ms. Girard: Okay.
5 Judge Keefe: Ms. Corbitt?
6 Ms. Corbitt: So, I expect that your comments about whining has to do
7 with the people, I take--
8 Judge Keefe: --Absolutely.
9 Ms. Corbitt: Right. And I take exception to calling our asking the court
10 to go along with the plea bargain that the defendant wants
11 to participate in as whining. I merely indicated that should
12 Your Honor not be willing to take this plea, that it would be
13 the people's intention to have an SCI done before Judge
14 Teresi. And I expect that before the eight week
15 adjournment that we are about to ... that the court is about to
16 grant that that may very well happen. So, what I indicated
17 that it sounded like was the court was intending on doing
18 some sort of compliance by having her begin participating
19 in [REDACTED]. The people would object to participating any
20 further in that. The proposal would involve probation
21 whereby her [REDACTED] could be monitored. And in terms of
22 her being heard, her issues go way deeper than this court
23 hearing her as it relates to her guilt or innocence. She's
24 willing to acknowledge guilt. She has other issues that she
25 needs to be heard about which does not involve this court

(People v Florence Shultis)

1 and goes way beyond this court's parameters. So, as far as
2 us doing something instead of whining, we are going to do
3 something instead of, as you call it, whining. And we
4 object to any further adjournments of this matter and any
5 adjournments will now be at the court's or the defendant's
6 request. The court indicated that this case may very well
7 better be for a trial. The people would disagree with that
8 since she's willing to admit her guilt. Since the court won't
9 give us any idea as to when, if ever, this plea bargain will
10 be acceptable, I will advise Ms. Fowler of that and I expect
11 that rather than Your Honor continuing to hear this matter,
12 it would be heard in county court by Judge Teresi.

13 Judge Keefe: Okay. Anything else, anybody? So, while the DA is right
14 that I was referring to them when I was speaking about
15 whining, they have the wrong comments that they were
16 making that I was referring to. That's fine. We'll adjourn
17 to eight--

18 Ms. Corbitt: --Well, then, why don't you clarify what comments you're
19 referring to since I'm wrong.

20 Judge Keefe: We'll adjourn for eight weeks.

21 Ms. Corbitt: What's the date?

22 Judge Keefe: I don't know.

23 Ms. Girard: 8/20.

24 Judge Keefe: 8/20.

25 Ms. Corbitt: Defendant's request?

(People v Florence Shultis)

1 Ms. Girard: (unintelligible)
2 Ms. Corbitt: And you're marking it defendant's request?
3 Judge Keefe: I'm marking it defendant required.
4 Ms. Corbitt: Your Honor, the people are not requesting that adjournment
5 until the time--
6 Judge Keefe: --Yes. I think you've made that very clear.
7 Ms. Corbitt: Okay. Well, I just want to make sure that the court file also
8 reflects that.
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Dated: December 10, 2013

Letitia Walsh
Letitia Walsh

STATE COMMISSION ON JUDICIAL CONDUCT
Corning Tower, Suite 2301
Empire State Plaza
Albany, New York 12223

EXHIBIT 4

1 STATE OF NEW YORK CITY OF ALBANY
2 CITY COURT COUNTY OF ALBANY

3 PEOPLE OF THE STATE OF NEW YORK
4
5 - against -
6 SCOTT CHESTNUT,
7 Defendant.
8 *****
9 Albany City Court
10 Criminal Part
11 One Morton Avenue
12 Albany, New York 12202
13
14 September 11, 2013
15 Commencing at 9:49 a.m.
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BEFORE: HON. THOMAS K. KEEFE

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A P P E A R A N C E S:

HON. P. DAVID SOARES
Albany County District Attorney
Six Lodge Street
Albany, New York 12207
BY: BRITTANY L. GROME
Assistant District Attorney

TRANSCRIBED BY: RENEE D. LEGUIRE, CSR, RPR, CRR

P R O C E E D I N G S

THE COURT: Miss Grome.

ADA GROME: Yes, your Honor.

[Background conversation.]

THE COURT: I wanted to try to make things easy for you on the matter of Scott Chestnut.

ADA GROME: Yes.

THE COURT: (Inaudible).

[Background conversation.]

THE COURT: Do the best I can to repeat everything I said in a telephone conversation with George Mehm the other day.

I told the -- that I believed that the district attorney's office is responsible for the death of Scott Chestnut. I believe the public defender's office and the Office of Court Administration are responsible for the death of Scott Chestnut. However, I think the greatest liability is on the district attorney's office.

There was multiple occasions (inaudible) Scott Chestnut. He was arrested on a felony, and there was a felony hearing set up with another judge, and at the date of the felony hearing there was a plea bargain agreement even though there were multiple cases still pending in front of me. Shortly thereafter Mr. Chestnut brought a

1 motion to me to vacate that plea based on the usual
2 mistake of fact. That was through his attorney.

3 I granted that motion which upset the district
4 attorney's office a great deal. They then -- there were
5 then things that went on. I was told, and I don't
6 remember who told me this, but I was told by an ADA that
7 Mr. Chestnut belonged in jail, not in treatment. So then
8 there was a proceeding brought in front of County Court
9 Judge Lynch. I'm sure Judge Lynch didn't -- wasn't
10 informed of a great deal of the background of this matter
11 and a severely addicted individual to heroin with a
12 traumatic brain injury, and the end result of the plea
13 bargain agreement was the plea would have technically
14 kept this man that needed to be in jail in jail for two
15 months or less than two months. He was released from
16 jail, and within 24 hours he was dead of a heroin
17 overdose.

18 Whatever ADA, I don't recall the ADAs that
19 touched this case, but whatever ADAs touched this case,
20 they should have a hard time sleeping at night. If they
21 don't have a hard time sleeping at night, they're in the
22 wrong line of work. So you can now get that transcript.
23 Thank you.

24 ADA GROME: Thank you. And I'm going to
25 respond to that.

1 THE COURT: Well, it wasn't for you to
2 respond. It was to allow you to have a transcript of
3 what I said while I was talking on the phone with the
4 public defender. Thanks.

5 (Whereupon, at 9:52 a.m., the proceedings in
6 the above-entitled matter were concluded.)
7

8 * * *

1 RE: People v. Scott Chestnut

2 AT: Albany City Court
3 Criminal Part
4 One Morton Avenue
5 Albany, New York 12202

6 DATE: September 11, 2013

7 C E R T I F I C A T I O N

8
9 I, RENÉE D. LEGUIRE, certify that the
10 foregoing transcript of proceedings in the Albany City Court
11 of People of the State of New York v. Scott Chestnut was
12 prepared using the required transcription equipment and is a
13 true and accurate record of the proceedings.

14 

15 RENÉE D. LEGUIRE, RPR, CRR,
16 Certified Shorthand Reporter

17
18
19
20 Date: September 18, 2013

EXHIBIT 5

Transcript of Proceedings in *Matter of People v. J. [REDACTED] P. [REDACTED] M. [REDACTED]* held
February 9, 2012 (11:32:14 - 11:56:06)
Matter of Hon. Thomas K. Keefe, a Judge of the
Albany City Court, Albany County

(People v J ■ P ■ M ■)

1 Judge Keefe: J ■ P ■ M ■ on for jury trial today. Ms. Chance,
2 Mr. Castillo.

3 Ms. Chance: Judge, we just discussed this on the phone today so, I
4 don't know...when is the next time you're going to be
5 here?

6 Mr. Castillo: One week.

7 Ms. Chance: One week?

8 Judge Keefe: No, wait, wait, wait, wait. What...why, why are we
9 discussing it over the phone today? This case is from
10 February of 2010.

11 Ms. Chance: I needed a minute. I was trying not to make
12 (unintelligible).

13 Judge Keefe: Okay, well. I know, but I...okay so, have a seat and we'll
14 go back and figure out...I'd like to have something other
15 than we're going to just...

16
17 (OFF THE RECORD)

18
19 Judge Keefe: M ■. Okay, we're on the matter of M ■.
20 Where do we stand? We're scheduled for a jury trial
21 today.

22 Ms. Chance: Judge, the offer remains to be a surcharge and a fine.

23 Judge Keefe: Mister...

24 Mr. Castillo: Well, the reason why we are here--

25 Judge Keefe: --For a jury trial--

(People v J ■■■ P ■■■ M ■■■)

1 Mr. Castillo: --is because last time, the people made that offer, I was
2 very clear that my client was not accepting that offer.

3 Judge Keefe: --Right.

4 Mr. Castillo: So.

5 Judge Keefe: Okay. So that means I'm dismissing this case since we're
6 scheduled for a trial today. Right?

7 Ms. Chance: Wait a minute. Excuse me. You and I had a conversation
8 where--

9 Judge Keefe: --Okay, okay. Fine. Court's closed.

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Dated: January 13, 2014

Courtney French
COURTNEY FRENCH

STATE COMMISSION ON JUDICIAL CONDUCT
Corning Tower, Suite 2301
Empire State Plaza
Albany, New York 12223

EXHIBIT 6

Transcript of Proceedings in Matter of *People v Quavon Johnson*
held February 15, 2013 (12:25:05 to 12:28:21)
Matter of Hon. Thomas K. Keefe, a judge of the
Albany City Court, Albany County.

(People v Quavon Johnson)

1 JUDGE KEEFE: Quavon Johnson. Are you Quavon Johnson? This
2 is the matter of Quavon Johnson. I note Ms.
3 Leisenfelder's appearance and Ms. Grome's
4 appearance, and Mr. Johnson, I apologize for not
5 bringing you in yesterday. But now, I've brought
6 you in today and I think there's a proposal and
7 what's the story on Mr. Johnson ... what's Mr.
8 Johnson's react--

9 MS. LEISENFELDER: He is willing to accept the three months.

10 JUDGE KEEFE: Okay. And do you know when then ... do you
11 know how much more time do you have?

12 MS. LEISENFELDER: About three weeks. He has court in Schenectady
13 next week. I don't know why he wants us to know
14 that.

15 JUDGE KEEFE: Well, because he wants ... doesn't want to miss it.
16 Right?

17 MR. JOHNSON: Pretty much, yeah.

18 JUDGE KEEFE: Yeah. Okay. So, you ... what is that court, what's
19 that about?

20 MR. JOHNSON: When they picked me up this time, I was paranoid
21 about the warrant and provided not my name. So,
22 it was a crim--

23 JUDGE KEEFE: --Okay, listen. Great. Isn't that great. So, having
24 said that, you're going to be in jail for whatever ...
25 they're going to figure out your out date once we

1 do this, right? Once you get back to the jail? And
2 you may be right, but they ... has anybody really
3 calculated it, or are you calculating it?
4 MS. LEISENFELDER: That's his calculation.
5 MR. JOHNSON: That's my calculation.
6 JUDGE KEEFE: Yes. Okay. So, anyway, you're going to get out
7 and when you get out, what did you say? You're
8 going to deal with the Schenectady thing, right?
9 And you're also living where?
10 MR. JOHNSON: With my aunt on [REDACTED].
11 JUDGE KEEFE: In Albany?
12 MR. JOHNSON: Yes.
13 JUDGE KEEFE: Okay. And are you ... were you ... are you
14 working? Were you working?
15 MR. JOHNSON: I've been applying for a job.
16 JUDGE KEEFE: Okay. You're going to do that? Okay. You're
17 going ... what's ... we're closing this. You're
18 going to be free. Right? Which is what you want,
19 because we've run you ragged here. Right? I'm
20 sorry. Still, the question is, when do I see you
21 again?
22 MR. JOHNSON: Never.
23 JUDGE KEEFE: Well, yeah. But, that takes a little bit of work,
24 right? Right? Listen, I understand you don't want
25 to see me again, but in the end, you screw

1 something up, your case is going to get assigned to
2 me. Right? And I'm saying that because I know
3 you don't want to see me and I'd love to run into
4 you somewhere, but not here. I don't want to see
5 you here either. Right? And so I want you to
6 remember your case is going to get assigned to me
7 and we're going to start all over again. Right?
8 And I'm going to be here for over nine years.
9 Right? So, I'm telling you that because I want you
10 to work hard on not wanting to come see me.
11 Okay. So you're going to plead to a violation of
12 terms and conditions of probation? Right? On the
13 charge of violating terms and conditions of
14 probation, an order of probation that I executed on
15 April 21st of the year 2009 and on an allegation you
16 violated that on, but not limited to, January 20th of
17 the year 2011 in the City of Albany. How do you
18 plead?
19 MR. JOHNSON: Guilty.
20 JUDGE KEEFE: The court will accept your admission and I'm
21 going to sentence you to--
22 MS. LEISENFELDER: --Three months--
23 JUDGE KEEFE: --three months. Credit for time served. Good luck.
24
25

CERTIFICATION

I, COURTNEY FRENCH, a Secretary II of the State Commission on Judicial Conduct, do hereby certify that the foregoing is a true and accurate transcript of the audio recording of the proceeding transcribed by me to the best of my knowledge and belief, in the matter held on February 15, 2013.

Dated: June 27, 2014


Courtney French

EXHIBIT 7

Transcript of Proceedings in Matter of *People v H [REDACTED] J [REDACTED]*
held February 22, 2013 (14:15:48 to 14:20:52),
February 27, 2013 (2:02:39 to 2:03:07)
and April 24, 2013 (3:01:33 to 3:04:14)
Matter of Hon. Thomas K. Keefe, a judge of the
Albany City Court, Albany County.

February 22, 2013 (14:15:48 to 14:20:52)

1
2 JUDGE KEEFE: H [REDACTED] J [REDACTED]. [REDACTED] J [REDACTED], I note Ms.
3 Leisenfelder and Ms. Grome. Mr. J [REDACTED], hi.
4 What's going on? Where have you been? Ms.
5 Leisenfelder, have you had a chance to speak to him?
6 MS. LEISENFELDER: No.
7 JUDGE KEEFE: Okay. What do you want to do? Do you want to
8 speak to him, not speak to him?
9 MS. LEISENFELDER: Is it going to change the--
10 JUDGE KEEFE: --The answer is I don't have a ... How would I
11 know? I doubt it, but what do I know? I don't know
12 anything about this and I just asked him a question
13 and he just shook his head, so if he doesn't want to
14 talk to me ...
15 MS. LEISENFELDER: Okay. So, he's been local the whole time. He didn't
16 want to come back to court because he was scared
17 and--
18 JUDGE KEEFE: --Of me? Okay. Is that it?
19 MS. LEISENFELDER: I defer to the court as to what to do.
20 JUDGE KEEFE: Mr. ... Ms. Grome.
21 MS. GROME: Judge--
22 JUDGE KEEFE: --Mr. J [REDACTED], Mr. J [REDACTED], Mr. Grome, Ms.
23 Grome. You never met her before, have you? Go
24 ahead.
25 MS. GROME: The people are requesting that bail be set. The

1 defendant does have four failure to appear counts,
2 two open warrants.
3 JUDGE KEEFE: Bail? Whoa. So, no. I am going to remand him on
4 his pleas into drug court and we will set this down
5 for Wednesday and we'll see what ... We'll ask Mr.
6 J [REDACTED] on Wednesday what he wants to do and then
7 we'll take it from there. See you Wednesday.
8 MS. GROME: He's in drug court? No one told me that.
9 FEMALE VOICE: That's because they're looking for the file.
10 JUDGE KEEFE: Okay.
11 FEMALE VOICE: What's this? Is this the new one, Judge?
12 JUDGE KEEFE: So, he'll be ... Listen, he'll come in on Wednesday
13 for drug court. That will be the front court, and
14 we're just going to treat him the same as anybody
15 else which is he ... The first thing he has to do is tell
16 us what he wants to do because he has some choices.
17 His choices are to have a hearing on whether he
18 violated the drug court agreement or he might want
19 to ask us to let him stay in drug court. If he asks us
20 to stay in drug court, then we would roll it over for a
21 week, maybe longer, because the drug court team has
22 to discuss what he wants us to do. If he just wants to
23 be sentenced, we would ... We need ... It takes eight
24 weeks to get a presentence report and I can't
25 sentence him without a presentence report, right? So

1 ... But that's basically it. That's basically the
2 choices. Once we have a presentence report, then I
3 can sentence him if that's what he wants to do. If he
4 wants to ... If he wants drug court, he's got to, you
5 know, he's going to have to convince a majority of
6 the drug court team because we vote, drug court
7 votes, and there needs to be a majority of people that
8 say we want him to stay in drug court. H [REDACTED] is
9 going to have a hard time convincing anybody that
10 we should keep him in drug court but that's ... we
11 still have to find out what he wants to do, okay?
12 MALE VOICE: (Unintelligible) with no bail?
13 JUDGE KEEFE: No. He's pled guilty to several different times. He
14 is not entitled to bail, right? I mean if, you know, if
15 there was a reason for me to let him out, someone
16 should have spoken about what that reason is but the
17 bottom line is if there was a reason to let him out,
18 probably he should have walked in the front door
19 and given me the reason to let him out, not to be
20 picked up on a warrant, right?
21 MALE VOICE: What time is drug court?
22 JUDGE KEEFE: Can't hear you. Oh, one ... Well, gen ... It starts at
23 1:30. Sometimes it starts later if we're not ready to
24 start because our conferencing takes so long so,
25 generally, 1:30 unless our conferencing takes a little

1 bit longer than 1:30. Front court.
2 MALE VOICE: All right. Thank you, Judge.
3 JUDGE KEEFE: Thank you.
4 FEMALE VOICE: Judge, I am going to let you keep these because it
5 looks like he got a new file, he got to have--
6 JUDGE KEEFE: --Who?
7 FEMALE VOICE: H [REDACTED] J [REDACTED]
8 JUDGE KEEFE: Oh, wait. Nobody told me that. Hold on. Hold on.
9 Hold it. Is he still here? Damn. That's not a new
10 file. What are you talking about?
11 FEMALE VOICE: Is that new?
12 JUDGE KEEFE: That's not a new file.
13 FEMALE VOICE: Okay.
14 JUDGE KEEFE: No, no, no. You're scaring me.
15 FEMALE VOICE: You scare--
16 JUDGE KEEFE: --You're scaring me.
17 FEMALE VOICE: You're scaring me.
18 MALE VOICE: He don't have no new charges.
19 FEMALE VOICE: No. He doesn't.
20 JUDGE KEEFE: No. She was just trying to get him in trouble.
21 MR. J [REDACTED]: Can I ask for bail now?
22 FEMALE VOICE: No.
23 MR. J [REDACTED]: We're having a family get-together this weekend.
24 JUDGE KEEFE: Well, you should have come in and said, "We're
25 having a family get-together. I really don't want to

miss it so, therefore, I am turning myself in." But that's ... You did not ... You didn't choose to do that so I'm sorry.

February 27, 2013 (2:02:39 to 2:03:07)

JUDGE KEEFE: Matter of H [REDACTED] J [REDACTED]. I note Ms. Leisenfelder and Mr. ... Ms. Grome. And Mr. J [REDACTED] has been in jail and he is supposed to come in today and tell us what he wants to do. Ms. Leisenfelder.

MS. LEISENFELDER: Yes. We're just looking for a sentencing date. I believe that would be April 27 ... or 24th, and--

JUDGE KEEFE: --Okay. So, we're going to roll this over to April 24th for sentencing. We will see you back here then.

MALE VOICE: Is he going to be released?

April 24, 2013 (3:01:33 to 3:04:14)

JUDGE KEEFE: So, we're here for sentencing. Any reason I shouldn't proceed with sentencing at this time? How is it going there, Mr. J [REDACTED]?

MR. J [REDACTED]: Fine.

JUDGE KEEFE: Yeah? What does that mean?

MR. J [REDACTED]: I am nervous about this.

JUDGE KEEFE: You are, huh? You should be. So, how is it going?

MR. J [REDACTED]: It's going all right.

JUDGE KEEFE: Is that why you didn't tell me I missed you when I

1 said, "Did I miss anybody?" Are you working?
2 MR. J [REDACTED]: (Unintelligible.)
3 JUDGE KEEFE: Okay. Okay. Does anybody want to be heard?
4 MS. GROME: Yes, Judge. The People request that the defendant
5 be sentenced in accordance with his drug court
6 contract of 12 months in the Albany County Jail.
7 JUDGE KEEFE: Ms. Leisenfelder, anything?
8 MS. LEISENFELDER: Judge, I would ask the court consider sentencing Mr.
9 J [REDACTED] to a conditional discharge, no new arrests
10 for one year. He is working. He is here today.
11 And ...
12 JUDGE KEEFE: Okay. So, sir, anything you want to say?
13 MR. J [REDACTED]: I don't know. I'm working, trying to get my life
14 together, and you know ...
15 JUDGE KEEFE: In other words, you continue to have trials and
16 tribulations and your life is not together?
17 MR. J [REDACTED]: I'm ...
18 JUDGE KEEFE: You haven't been arrested.
19 MR. J [REDACTED]: That's right.
20 JUDGE KEEFE: Right? Okay. So I am going to sentence you, sir, to
21 a conditional discharge with no new arrests for one
22 year. You owe \$200 and I am going to sentence you
23 to 30 hours of community service. So, do you want
24 to have that done through the community ...
25 prosecutor's office?

(People v H [REDACTED] J [REDACTED])

1 MS. GROME: I don't think we are taking part in whatever you are
2 sentencing him to.
3 JUDGE KEEFE: Okay. So, find out ... You got to figure out how to
4 do community service. How much time do you need
5 to find proof of community service?
6 MR. J [REDACTED]: I think a week?
7 JUDGE KEEFE: You're going to get 30 hours of community service
8 done in a week?
9 MR. J [REDACTED]: Oh, 30 hours. No, I thought you meant proof, like
10 I'm doing it.
11 JUDGE KEEFE: No. Proof like it's done.
12 MR. J [REDACTED]: Oh.
13 MS. LEISENFELDER: Two months? June 28th.
14 JUDGE KEEFE: June 28th for proof of community service and, sorry,
15 and \$200. How much time?
16 MS. LEISENFELDER: June 28th for everything.
17 JUDGE KEEFE: June 28th, proof of community service and 30 hours,
18 and \$200. Thank you.
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CERTIFICATION

I, LISA SAVARIA an Assistant Administrative Officer of
the State Commission on Judicial Conduct, do hereby certify that the
foregoing is a true and accurate transcript of the audio recording
described herein to the best of my knowledge and belief.

Dated: June 27, 2014

Lisa Savaria
Lisa Savaria

Transcript of Proceedings in Matter of *People v Kenrick Lewis*
held April 1, 2013 (14:40:38 to 14:49:06 and 14:52:00 to 14:54:00)
Matter of Hon. Thomas K. Keefe, a judge of the
Albany City Court, Albany County.

(People v Kenrick Lewis)

1	Judge Keefe:	Come on in.
2	Ms. Grome:	Kendrick Lewis.
3	Judge Keefe:	Kendrick Lewis.
4	Ms. Grome:	I made an offer ... well ... If you look at the
5		court file--
6	Ms. Girard:	--Yeah, let me look at the court file. What's
7		the charge?
8	Ms. Grome:	It's criminal possession of marijuana.
9	Judge Keefe:	This is the <i>Matter of Kendrick Lewis</i> . I note
10		Ms. Girard's appearance and Ms. Grome's
11		appearance. Mr. Lewis is here. How are you
12		doing, sir?
13	Mr. Lewis:	I'm all right. And you?
14	Judge Keefe:	Okay. So, you've ruined everything, right?
15	Mr. Lewis:	Who me?
16	Judge Keefe:	Yes.
17	Mr. Lewis:	How?
18	Judge Keefe:	The original plan was that you were going to
19		get arrested again so that we could get you
20		into drug court, and you screwed everything
21		up by not getting arrested.
22	Mr. Lewis:	But that's my job, not to get arrested. I'm
23		doing nothing wrong. I've done everything
24		you asked me to do, complied by everything.
25		There should be no reason for you to expect

1		me in here in handcuffs. And because of you
2		I'm getting fat.
3	Judge Keefe:	Because of me what?
4	Mr. Lewis:	I'm getting fat.
5	Judge Keefe:	You're getting fat. I have that effect on
6		people.
7	Mr. Lewis:	My ex-wife even told me the other day I look
8		like a pig (unintelligible).
9	Judge Keefe:	I do not have a file for (unintelligible). Do
10		you have any more cupcakes? Just ... Do you
11		have any more cupcakes?
12	Unknown Female:	Yup.
13	Judge Keefe:	You do? Because maybe he'd like a cupcake.
14	Mr. Lewis:	Make it two.
15	Judge Keefe:	Okay. Have a seat for a moment or, right,
16		we're having some type of discussion.
17	Unknown Female:	Judge, do you have that file that you
18		appointed us on earlier, that AUO and I was
19		going to give you the date? R[REDACTED]? W[REDACTED]
20		R[REDACTED]?
21	Judge Keefe:	Yup.
22	Unknown Female:	It was (unintelligible). It was 5/16.
23	Judge Keefe:	I have to figure out which one was the right
24		person. Who was it, three people?
25	Unknown Female:	Mm-hmm. I said W[REDACTED] R[REDACTED].

(People v Kenrick Lewis)

1	Judge Keefe:	Have your clients been making fun of you
2		today?
3	Unknown Female 1:	Because of this (unintelligible). Too nice for
4		that.
5	Unknown Female 2:	The internet's down.
6	Unknown Female 1:	And there wasn't one in the court file?
7	Judge Keefe:	Nope.
8	Unknown Female 2:	No.
9	Judge Keefe:	Neither court file.
10	(Unintelligible Conversation Between Attorneys)	
11	Unknown Female 1:	Okay. Judge, can we adjourn Mr. Lewis for
12		an offer?
13	Judge Keefe:	Sure.
14	Unknown Female 2:	He can come back tomorrow if he wants or
15		we can put out--
16	Judge Keefe:	--Mr. Lewis, when would you like to come
17		back? We have to give the DA an opportunity
18		to ... If you run that criminal history and then
19		make a proposed offer for resolving this case.
20	Mr. Lewis:	Well, I thought the last time ... The last time
21		we spoke, I thought after I come back today,
22		everything is up to date, paperwork, I am
23		going to the program and everything, this
24		would probably be my last day.
25	Judge Keefe:	Well, I understand what you're saying and I

1		think this is--
2	Mr. Lewis:	--Now all of a sudden I'm hearing a proposal
3		for what?
4	Judge Keefe:	Well, how would we ... We have to figure out
5		how to close this file.
6	Mr. Lewis:	But I am doing everything I was obligated to
7		do. I was going to the program--
8	Judge Keefe:	--You actually were not obligated to do any of
9		that. You voluntarily did it all. You did very,
10		very well--
11	Mr. Lewis:	--And I--
12	Judge Keefe:	--You've done very, very well but here the
13		thing is this is a criminal case, right? We
14		entered a not guilty plea. We still have to
15		figure out a way to close the case, right?
16	Mr. Lewis:	And by that, meaning?
17	Judge Keefe:	Well, there is three-- There is essentially
18		three ways of closing a case. A trial would be
19		one way. We have a trial.
20	Mr. Lewis:	And I really (unintelligible) a trial--
21	Judge Keefe:	--Well listen, let me just finish because I
22		understand ... I understand your frustration,
23		all right, but there is not a lot I can do but I
24		am going to try to do the best I can. A trial
25		would be one way. Just plead to the charge

1		and leave your faith in my hands. That would
2		be a second way. Or negotiate an agreement
3		where the DA makes a proposal on how to
4		close it out and you say yes to that proposal.
5		So, at this moment, the DA hasn't made a
6		proposal.
7	Mr. Lewis:	But my question is--
8	Judge Keefe:	--Okay.
9	Mr. Lewis:	My question is--
10	Judge Keefe:	--Yeah.
11	Mr. Lewis:	--I did not plead out to no trial.
12	Judge Keefe:	That is correct.
13	Mr. Lewis:	Me and you sat outside and we talked--
14	Judge Keefe:	--Well, during--
15	Mr. Lewis:	--And we talked and you was, like, "The best
16		bet for me"--
17	Judge Keefe:	--Okay, hold on. Hold on, hold on, hold on,
18		hold on. You're talking about when you were
19		looking at drug court, right?
20	Mr. Lewis:	Right.
21	Judge Keefe:	And you were waiting with all the other
22		people, and I was waiting with all the other
23		people to come to the door at drug court,
24		right?
25	Mr. Lewis:	Right.

(People v Kenrick Lewis)

1	Judge Keefe:	We had a conversation about your case, right?
2	Mr. Lewis:	Right. You only had three months over my
3		head.
4	Judge Keefe:	Right. Right. You only had a B misdemeanor.
5		We couldn't take you into drug court.
6	Mr. Lewis:	Right. And I went to program--
7	Judge Keefe:	--You were going to go out and get arrested
8		for something more serious.
9	Mr. Lewis:	That's what you told me.
10	Judge Keefe:	You screwed things up by not getting
11		arrested.
12	Mr. Lewis:	I didn't screw nothing up. You wanted me to
13		screw up. I did not.
14	Judge Keefe:	Right.
15	Mr. Lewis:	I went to program, like you insisted. I gave
16		you follow-up evaluations.
17	Judge Keefe:	Right. Yup.
18	Mr. Lewis:	Urine, everything. They put it in the papers.
19	Judge Keefe:	Yeah.
20	Mr. Lewis:	You told me last month, when I came here at
21		the beginning of the month, this might be my
22		last time coming here.
23	Judge Keefe:	Might be. Might be.
24	Mr. Lewis:	Most likely. The way you said it--
25	Judge Keefe:	--Okay.

1	Mr. Lewis:	The way you said it was--
2	Judge Keefe:	--Right. Okay.
3	Mr. Lewis:	--last month, if I didn't slip up two months
4		ago with the attendance, that would have been
5		my last time coming to court.
6	Judge Keefe:	May.
7	Mr. Lewis:	May.
8	Judge Keefe:	Right. Okay. So we're now in--
9	Mr. Lewis:	--But we ended up going on this--
10	Judge Keefe:	--complete agreement. We're now in
11		complete agreement, right?
12	Mr. Lewis:	Right.
13	Judge Keefe:	But you now want to know why I am not--
14	Mr. Lewis:	--Now I have to deal with the DA ... but
15		what?
16	Judge Keefe:	She has to make a proposal, a settlement
17		offer.
18	Mr. Lewis:	To what?
19	Judge Keefe:	To the criminal charge you're facing.
20	Mr. Lewis:	I thought I took care of then when I'm going--
21		I am going to program--
22	Judge Keefe:	--Did you have a trial?
23	Mr. Lewis:	No. We ... We cancelled that.
24	Judge Keefe:	Okay. Did you plead guilty? Okay. Listen.
25		There is three ways of doing this: Trial, plead

1		guilty or have ... or say yes to a proposal the
2		district attorney made.
3	Mr. Lewis:	And what is my proposal?
4	Judge Keefe:	Hold on. Hold on. Hold on.
5	Unknown Female 1:	That's what you need to get.
6	Judge Keefe:	Three ways. We haven't had a trial and we
7		don't want a trial. You don't want to plead
8		guilty and you haven't pled guilty. That
9		leaves you saying yes to her proposal. That's
10		all that you have to--
11	Unknown Female 1:	--He wants to know what that is.
12	Mr. Lewis:	And what is that?
13	Judge Keefe:	She doesn't have one. That's why we have to
14		come up with a ... That's why you have to
15		come--
16	Mr. Lewis:	I've been coming here for how long and she
17		don't have a proposal?
18	Judge Keefe:	Well, she is brand new. She must ... You
19		haven't seen her here for a long time.
20	Mr. Lewis:	No. This is my first time really seeing her
21		here.
22	Judge Keefe:	Correct. See? You can't blame her.
23	Mr. Lewis:	But at the same ... But at the same time--
24	Judge Keefe:	You can't blame her.
25	Mr. Lewis:	But at the same time I've been coming here.

(People v Kenrick Lewis)

1	Judge Keefe:	I agree.
2	Mr. Lewis:	I've been ... She ... I am not saying you are
3		doing anything wrong--
4	Judge Keefe:	--Right.
5	Mr. Lewis:	--but you are supposed to have my paperwork
6		down pat.
7	Judge Keefe:	She wants ... She does but, sir, she wants to
8		be careful. You deserve a district attorney
9		who is being careful, right?
10	Mr. Lewis:	These two women right here--
11	Judge Keefe:	--Sir, hold on. Hold on. Hold on. Hold on--
12	Mr. Lewis:	--has been doing their job for me.
13	Judge Keefe:	Hold on. Hold on. Hold on. Stop. Stop.
14		Stop. Stop. I know that, because they're
15		going to get swelled heads if you keep talking
16		like that.
17	Mr. Lewis:	No, but they've been doing their job for me
18		and they made sure I'm all right. And I've
19		been going to program. I am bringing them
20		letters. I am doing everything I am supposed
21		to do.
22	Unknown Female 2:	All right. We got an offer. We can have him
23		sit down and if the court is willing to accept
24		it.
25	Judge Keefe:	Oh my God. Okay. Have a seat. Have a seat.

1		Have a seat.
2		* * *
3	Unknown Female 1:	Judge, do you want to call Mr. Lewis?
4	Judge Keefe:	What should I call him?
5	Unknown Female 1:	Kendrick Lewis?
6	Judge Keefe:	Kendrick Lewis. So, what's the proposal?
7	Unknown Female 1:	A plea to the criminal possession of marijuana
8		5 th , class B misdemeanor, on the condition of
9		treatment and the condition of no arrests.
10	Mr. Lewis:	Disappointed you, huh?
11	Unknown Female 1:	Is that acceptable to the court?
12	Judge Keefe:	Mr. Lewis want to do it?
13	Unknown Female 1:	Yes.
14	Mr. Lewis:	Uh-huh. I'm already in program. I am
15		following up. I am doing everything I am
16		supposed to do. I have no problem with that.
17	Judge Keefe:	Okay. So, sir, you understand you have a
18		right to a jury trial and by entering into a
19		negotiated agreement, you are waiving the
20		jury trial?
21	Mr. Lewis:	Mm-hmm.
22	Judge Keefe:	On the charge of possession of marijuana, a
23		misdemeanor violation of Section 221.10 of
24		the Penal Code in the City of Albany on
25		August 6 th of last year, how do you plead?

1	Mr. Lewis:	Guilty.
2	Judge Keefe:	The court will accept your plea. I am going to
3		impose the state mandated surcharge of \$200
4		and a conditional discharge requiring you to
5		continue, successfully complete your
6		treatment. You have been very successful.
7	Mr. Lewis:	So, the money I am paying now--
8	Unknown Female 2:	--And I ask that you convert that. He's not
9		working. He is in treatment full time. Does
10		he have a DNA fee as well, Judge, and I ask
11		that you convert.
12	Judge Keefe:	Yeah, yeah, yeah, yeah. I can't convert the
13		DNA fee, so a \$50 DNA fee.
14	Unknown Female 2:	Oh, you can't?
15	Judge Keefe:	And we need to take your DNA. How do we
16		do that? Who does that?
17	Unknown Male:	We do.
18	Judge Keefe:	You need to take his DNA.
19	Unknown Female:	I'm right here.
20	Judge Keefe:	Okay. Who has the needle? We got to take
21		some ... a blood sample.
22	Mr. Lewis:	Take my DNA for what?
23	Unknown Female:	It's an oral swab.
24	Judge Keefe:	For ... To put into the system. We're ... Who
25		has the needle today? It's really ... The

(*People v Kenrick Lewis*)

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Unknown Female:

Mr. Lewis:

Judge Keefe:

needle ... We've reformed the needle so it no longer has a square tip on it, so it's not as painful as it used to be.

Here you go, Judge--

--Why are you taking my DNA?

Because we need to. We need to make sure you are who you claim to be.

CERTIFICATION

I, LISA SAVARIA an Assistant Administrative Officer of
the State Commission on Judicial Conduct, do hereby certify that the
foregoing is a true and accurate transcript of the audio recording
described herein to the best of my knowledge and belief.

Dated: December 10, 2013

Lisa Savaria

Lisa Savaria

EXHIBIT 9

Transcript of Proceedings in Matter of *People v E* [REDACTED] *M* [REDACTED] held
June 19, 2013 (2:08:06 to 2:56:07)
Matter of Hon. Thomas K. Keefe, a Judge of the
Albany City Court, Albany County

(People v E [REDACTED] M [REDACTED])

1 JUDGE KEEFE: Mr. M [REDACTED].
2 MR. M [REDACTED]: Yes.
3 JUDGE KEEFE: Why did I bring you up today?
4 MR. M [REDACTED]: Because I missed a whole week of treatment.
5 JUDGE KEEFE: Oh. So, why didn't you say that the last time I called
6 you up?
7 MR. M [REDACTED]: I wasn't too sure what you was bringing me up for.
8 JUDGE KEEFE: In other words, there was any number of things I could
9 have called you up for. You weren't sure what we
10 caught you on.
11 MR. M [REDACTED]: That wasn't it. It was my counselor--
12 JUDGE KEEFE: --Well, then explain it to me, sir--
13 MR. M [REDACTED]: --My counselor said--
14 JUDGE KEEFE: --Hold on. Hold on. Moments ago, I called you up and
15 I said, "Why did I bring you up?"
16 MR. M [REDACTED]: I was--
17 JUDGE KEEFE: --Hold on. Hold on. Now, you come back and say,
18 "Here's why I brought you back up. I missed a week's
19 worth of treatment." Wait a second, before she talked to
20 you, you knew you missed a week's worth of treatment.
21 MR. M [REDACTED]: Yes.
22 JUDGE KEEFE: So, why didn't you say that to me?
23 MR. M [REDACTED]: I just--
24 JUDGE KEEFE: --Well, hold on. And it has to be because you didn't
25 know whether I knew that.

1.

(People v E [REDACTED] M [REDACTED])

1 MR. M [REDACTED]: I knew you knew that.
2 JUDGE KEEFE: Well, then why didn't you say it to me?
3 MR. M [REDACTED]: Because I wasn't too sure what you are calling me on.
4 JUDGE KEEFE: In other words, there are some other things. Why don't
5 you tell me about the other things, now?
6 MR. M [REDACTED]: I had a family crisis. I had a nervous breakdown and--
7 JUDGE KEEFE: --Who did?
8 FEMALE VOICE: He did.
9 MR. M [REDACTED]: I did. And I was in the house in my bed and room,
10 locked in my room for like a whole week. My support
11 network had to come get me out, take me out to Dunkin'
12 Donuts and stuff like that. You all scared to hit the
13 streets.
14 FEMALE VOICE: And he called the crisis, didn't you?
15 MR. M [REDACTED]: I called the crisis hotline and talked to them for a couple
16 of hours on the phone. They sent somebody over to my
17 house. You know, they talked to me and coached me
18 and they had to get me out--
19 JUDGE KEEFE: --Okay. Okay. I'm mellowing. I'm mellowing.
20 MR. M [REDACTED]: And they got me back to treatment--
21 JUDGE KEEFE: --What else can you tell me that you think maybe I don't
22 know about?
23 MR. M [REDACTED]: I had Friday, on top of everything else, I had a little
24 relapse with marijuana. I got three days--
25 JUDGE KEEFE: --Thank you, very much. Have a seat. Thank you, very

(People v E [REDACTED] M [REDACTED])

1 much. Have a seat. Thank you, very much. Have a
2 seat.
3 (OFF THE RECORD)
4 JUDGE KEEFE: E [REDACTED] M [REDACTED]?
5 MR. M [REDACTED]: Yes, sir.
6 JUDGE KEEFE: So, you also tested positive for crack cocaine. Does that
7 shock you?
8 MR. M [REDACTED]: No, it don't.
9 JUDGE KEEFE: So, I'm sanctioning you. You're going to jail and we'll
10 see you back here in a week.
11 FEMALE VOICE: I thought it was his first sanction?
12 JUDGE KEEFE: Well, I'm not so sure we're going to keep him in drug
13 court. I mean, listen, you know ... He was equivocal
14 with me in the beginning and even after the whole song
15 and dance, he waited until we caught him, having tested
16 positive for crack cocaine, right? So, I just ... I'm not
17 quite sure we can do drug court. We'll see you in a
18 week and we'll have some type of discussion with you.
19 Okay? We'll see you in a week.
20 MR. M [REDACTED]: A week?
21 JUDGE KEEFE: We'll see you in a week. We'll see you in a week.
22 MR. M [REDACTED]: Why? I was doing everything right, man. I just had a
23 family issue.
24 JUDGE KEEFE: So, you don't even want me to put you in jail at all?
25 MR. M [REDACTED]: Not really, man, because I had--

3.

(*People v E* [REDACTED] *M* [REDACTED])

1 JUDGE KEEFE; --Yeah. Okay. I think we're probably done. Okay?

2 MR. M [REDACTED]: Please, man? Can you just see me?

3 JUDGE KEEFE; Next week you'll come back and you'll have a
4 conversation with your lawyer.
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Dated: June 27, 2014

Letitia Walsh

STATE COMMISSION ON JUDICIAL CONDUCT
Corning Tower, Suite 2301
Empire State Plaza
Albany, New York 12223

Transcript of Proceedings in Matter of *People v. Elizabeth Santos* held
May 8, 2013 (13:42:30-13:43:50)
May 15, 2013 (14:19:00-14:26:00)
Matter of Hon. Thomas K. Keefe, a Judge of the
Albany City Court, Albany County

(People v Elizabeth Santos)

1 (5/8/13)

2 Judge Keefe: Ms. Santos. So, Ms. Santos, you were here last
3 Wednesday, correct?

4 Ms. Santos: Yes.

5 Judge Keefe: And we rolled it over to this week and I very, very
6 specifically told you not to bug your lawyers but you've
7 made no ... paid no attention to me, so, therefore we're
8 going to send you back and I'm going to have a
9 conversation with you next week if you can go a week
10 without calling your lawyers. Okay? Bye.

11 Ms. Santos: (unintelligible)

12 Judge Keefe: You've pled guilty to a crime. We don't have to even
13 consider you for drug court. You've ... If you'd rather
14 we just wait and bring you back eight weeks from now, I
15 can do that. Would you rather me just bring you back
16 eight weeks for sentencing or would you like to come
17 back and talk to us next week?

18 Ms. Santos: (unintelligible)

19 Judge Keefe: Next week, fine. I'm not going to see you next week if,
20 in fact, you've bugged your lawyers. Your lawyers have
21 nothing to talk to you about, okay? They've talked to
22 you about everything they can possibly talk to you
23 about. You have a right to a hearing as to whether ...
24 relative to whether or not you're entitled to the sentence
25 that we were going to impose upon you originally. Plus

(People v Elizabeth Santos)

1 you have new charges. We'll see you next week.

2 (Case adjourned to 5/15/13)

3 (5/15/13)

4 Judge Keefe: Ms. Santos. Come on up. So, number one, thank you
5 very, very much. I abruptly sent you back to jail last
6 week with instructions not to call your lawyer during the
7 week, right, which is a complete violation of your
8 Constitutional rights. But the bottom line is, your
9 Constitutional rights are somewhat limited by the fact
10 that you've pled into drug court and you are pleading
11 with us, if I understand it correctly, to let you be in drug
12 court. And the chances of you getting a majority vote
13 from the drug court team are as close to zero as I've ever
14 seen, okay, without being an absolute, no, okay?
15 Anything about what I just said ... Do you have any
16 questions about what I just said?

17 Ms. Santos: What do you think of the thing that--

18 Judge Keefe: --Okay. Slow down. Slow down. If you're going to just
19 ask me what I'm saying, I'll just say it all over again.

20 Ms. Santos: Okay--

21 Judge Keefe: --Sir ... Ma'am. Number one, thank you, very much.
22 You went a week without bugging your lawyers, right?

23 Ms. Santos: Yes.

24 Judge Keefe: Thank you. Last week you were here and I abruptly
25 sent you back to jail to come back for a week, right, with

(People v Elizabeth Santos)

1 the instructions again to not call your lawyer during the
2 week, right?

3 Ms. Santos: Correct.

4 Judge Keefe: And you did that. You've not called your lawyer during
5 the week. Thank you, very much. Anything about what
6 I just said that you don't understand? Now, I also put on
7 the record that a judge telling a defendant that they're
8 going to jail, and I'm prohibiting you from calling your
9 lawyer, is a violation of your Constitutional rights,
10 okay?

11 Ms. Santos: Yes.

12 Judge Keefe: It's outrageous. However, you have pled into drug court,
13 right?

14 Ms. Santos: No. I haven't pled into drug court yet.

15 Unknown female: She pled with a condition, no new arrests, but has since
16 been rearrested numerous times.

17 Judge Keefe: Okay, I apologize. You have pled, with no promises as
18 to what your sentence would be, but you have indicated
19 to us you want treatment.

20 Unknown female: Judge, can I just back up? She pled with a conditional
21 discharge. It wasn't no promises, it was an agreed upon
22 sentence, no new arrests. That night, she got rearrested
23 and has since been arrested in Colonie.

24 Judge Keefe: I apologize. I realize (unintelligible). You have pled
25 guilty to a crime with conditions attached. Those

(People v Elizabeth Santos)

1 conditions you haven't met. Haven't done there. Or at
2 least allegedly haven't met.

3 Ms. Santos: Conditional discharge for a year, right?

4 Judge Keefe: Right. Right. But you then got arrested that night.
5 Right? Right. Okay, and you've been arrested since
6 then.

7 Ms. Santos: Yes.

8 Judge Keefe: And so, you want to be in a treatment program, correct?

9 Ms. Santos: Correct.

10 Judge Keefe: Well, you're saying that like you're not really sure. Are
11 you just--

12 Ms. Santos: --No. Correct.

13 Judge Keefe: Okay. And we're willing to potentially have you come
14 into drug court and be in a treatment program.

15 Ms. Santos: Okay.

16 Judge Keefe: If we're not going to do that, we're just going to go to
17 trial on the other charges and I'm just going to sentence
18 you on the charge you pled to. Okay, you're confused
19 about what I've said.

20 Ms. Santos: No. I'm not confused. Yes, I want to be in drug court.
21 Yes, I want a program. Yes.

22 Judge Keefe: Okay. Okay, great. So, as a result of what you want,
23 right?

24 Ms. Santos: Right.

25 Judge Keefe: You're going to have to get a majority vote out of the

(People v Elizabeth Santos)

1 drug court team ... remember me ever talking about this
2 before?
3 Ms. Santos: Okay.
4 Judge Keefe: Drug court is run by a team of people--
5 Ms. Santos: --Yes--
6 Judge Keefe: --and I can be in favor of you being in drug court--
7 Ms. Santos: --Yes--
8 Judge Keefe: --and if a majority of the team members vote no, you
9 will not be in drug court. Right?
10 Ms. Santos: Right.
11 Judge Keefe: Okay. So, you want to be in drug court. You want to be
12 in treatment.
13 Ms. Santos: I want to be in treatment.
14 Judge Keefe: Okay. Well, the only option you have is drug court and
15 treatment.
16 Ms. Santos: I don't have--
17 Judge Keefe: --If you don't want drug court, then you can't be in
18 treatment.
19 Ms. Santos: Can I ask a question?
20 Judge Keefe: Sure, why not?
21 Ms. Santos: Can I be in honor court?
22 Judge Keefe: No. Yeah, you can ask questions. The question is no.
23 The only option available to you for treatment is to be in
24 treatment and be in treatment under the auspices of drug
25 court. If you do not want to do that, then we're going to

1 do trials on those other charges and I'm going to roll
2 your case that you've already pled to over for
3 sentencing.
4 Ms. Santos: Okay. I ... Can I ... Okay.
5 Judge Keefe: Ask me the questions.
6 Ms. Santos: Oh, wait. I remember that I ... My boyfriend told me
7 that I was supposed to be evaluated by Joan. Joan
8 evaluated me and she sent the evaluation over here. I
9 thought that they evaluated me because I was going to
10 be in drug court, so ... And the evaluation was outpatient
11 supported living.
12 Judge Keefe: Right.
13 Ms. Santos: Does that still stand or I got to get another evaluation?
14 Judge Keefe: You've been evaluated. You don't have to get another
15 evaluation.
16 Ms. Santos: Okay.
17 Judge Keefe: You don't know. Okay. So, we already have an
18 evaluation. What we have to do is decide whether or not
19 we're going to take you into drug court, okay?
20 Ms. Santos: Okay.
21 Judge Keefe: I was going to ask you last week whether or not ... I was
22 going to have this whole conversation, in a sense, with
23 you last week except for the fact you violated my rules
24 by calling your lawyer's office every single day,
25 multiple times during the day, after I told you you

(People v Elizabeth Santos)

1 weren't allowed to call your lawyer's office. So, we
2 rolled it over another week.

3 Ms. Santos: Okay.

4 | Judge Keefe: Now, you've done what we've asked you to do.

5 Ms. Santos: Okay.

6 Judge Keefe: Now, you've shown us, for a week, that there is some
7 chance we could be successful in drug court because if
8 you can't follow a simple direction to not call your
9 lawyer, not bug your lawyer for a short period of time,
10 you're still waiting to be in drug court. Drug court you
11 have to follow direction. You have to follow a pattern.
12 You have to do what you're supposed to do, okay? But,
13 bottom line is before you can get into drug court,
14 someone on the drug court team has to believe this
15 makes sense and so far, I don't know if you have
16 anybody on your side on the drug court team other than
17 your lawyer, okay?

18 Ms. Santos: Yep.

19 Judge Keefe: And she, somehow, has to convince a majority of people
20 in drug court that this is worthwhile, okay?

21 | Ms. Santos: Okay. Yes.

22 | Judge Keefe: Do you have any other questions for me?

23	Ms. Santos:	No.
----	-------------	-----

24 Judge Keefe: Okay. So, having said that, we're going to then discuss
25 this next week, right?

(People v Elizabeth Santos)

1 Ms. Santos: I got to go back to jail?

2 Judge Keefe: Absolutely. You didn't have to if you had been able to
3 do ... follow my directions last week. But the bottom
4 line is if we had made this decision last week, it would
5 have been no. If we had made this decision before I had
6 this conversation with you, it would've been no. No
7 drug court.

8 Ms. Santos: Okay.

9 Judge Keefe: This isn't ... Do you know that this is going to be almost
10 impossible for her? Thank God you have her as an
11 attorney because I don't think another attorney could
12 possibly do it. I'm not kidding. We'll see you next
13 week.

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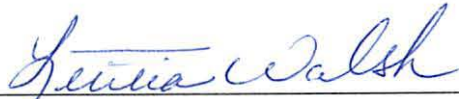
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CERTIFICATION

I, Letitia Walsh, an Administrative Assistant of the State
Commission on Judicial Conduct, do hereby certify that the foregoing is a
true and accurate transcript of the audio recording described herein to the
best of my knowledge and belief.

Dated: December 13, 2013



Letitia Walsh

STATE COMMISSION ON JUDICIAL CONDUCT
Address
City, State Zip

Transcript of Proceedings in Matter of *People v J [REDACTED] H [REDACTED]*
held August 22, 2013 (2:33:40 to 3:06:40)
Matter of Hon. Thomas K. Keefe, a judge of the
Albany City Court, Albany County.

(People v J [REDACTED] H [REDACTED])

1 Judge Keefe: J [REDACTED] H [REDACTED]. So, Mr. H [REDACTED], how are you doing?
2 Mr. H [REDACTED]: I'm doing wonderful. Yourself?
3 Judge Keefe: I'm doing okay. So, listen, we heard this story that
4 you indicated to the VA that you couldn't work with
5 the VA because you're involved with Vet Track.
6 Does that make any sense?
7 Unknown Female: No. No.
8 Mr. H [REDACTED]: No. No.
9 Judge Keefe: Well, that's not what I heard?
10 Unknown Female: No. No. No.
11 Judge Keefe: Oh. I guess I was hearing ... I guess I was
12 hallucinating. So, are you going to be ... Are you
13 working with the VA?
14 Unknown Female: Yes.
15 Mr. H [REDACTED]: What are you talking about? CWT?
16 Unknown Female: Yes.
17 Mr. H [REDACTED]: No. I'm not right now.
18 Judge Keefe: I'm talking about CWP?
19 Unknown Female: T.
20 Judge Keefe: Okay. I have no idea what that is, but I guess that's
21 what I'm talking about. So, you're not working with
22 them?
23 Mr. H [REDACTED]: No. Not right now.
24 Judge Keefe: What did I misunderstand?
25 Unknown Male: He is working with our employment services, Your

1 Honor, not the VA's employment services.
2 Judge Keefe: Right, but didn't I ... Didn't someone say something
3 about he said that he couldn't? Oh, okay. Never
4 mind. Never mind. Okay. Now, how is the
5 marijuana thing?
6 Mr. H [REDACTED]: I've proved that a false positive, sir.
7 Judge Keefe: You proved a false positive? How did you do that?
8 Mr. H [REDACTED]: I got retested.
9 Judge Keefe: Hmm. He tested positive at the VA, correct?
10 Unknown Female 1: I don't have the newest one, so ...
11 Mr. H [REDACTED]: I went back to the VA and got retested.
12 Unknown Female 2: That one showed positive.
13 Mr. H [REDACTED]: No. I went back and got retested this week.
14 Judge Keefe: Okay. What do you ... I am not quite sure I
15 understand you. I am not ... Understand.
16 Understand. So, you had a positive test last week?
17 Mr. H [REDACTED]: Monday.
18 Judge Keefe: And then you got--
19 Unknown Female 1: --This Monday.
20 Mr. H [REDACTED]: And then I went back--
21 Judge Keefe: --And then you got a negative test this week, and
22 you're suggesting that that proves that you weren't
23 positive last week?
24 Mr. H [REDACTED]: No, no, no. It was all this week.
25 Unknown Female 1: Monday was the false positive. He went back

1 yesterday, which was negative. I am just looking at
2 the sheet that says last UDS, 8/21, negative.
3 Judge Keefe: Great. But I am still all kinds of confused.
4 Unknown Female 2: At the VA he tested--
5 Judge Keefe: --At the VA, what day?
6 Unknown Female 2: 8/19.
7 Judge Keefe: On 8/19. What day is that?
8 Unknown Female 1: Monday.
9 Unknown Female 2: Correct.
10 Judge Keefe: Monday. Okay. At the VA, you tested positive.
11 Mr. H [REDACTED]: Yes. And then I went back yesterday and got
12 retested.
13 Unknown Female 2: 8/21 he was negative. That means it was out of his
14 system. Okay.
15 Judge Keefe: Okay. Sir, but how does that make it a false
16 positive?
17 Mr. H [REDACTED]: I didn't do anything, sir.
18 Unknown Female 1: Yeah.
19 Judge Keefe: Okay. That ... So ... It ... So, we--
20 Mr. H [REDACTED]: --And the Thursday before--
21 Judge Keefe: --It doesn't--
22 Mr. H [REDACTED]: --The Thursday before--
23 Judge Keefe: --It was ... Okay. Hold on. If we tested you right
24 now and you tested positive--
25 Mr. H [REDACTED]: --You can test me.

(People v J [REDACTED] H [REDACTED])

1 Judge Keefe: Thank you very much.
2 Mr. H [REDACTED]: I am not trying to be--
3 Judge Keefe: --All right. No. Listen. That's okay. I am.
4 Mr. H [REDACTED]: Okay.
5 Judge Keefe: Okay? So, you don't have to try anything. I am
6 trying to be a generalized asshole and I'm pretty
7 good at it, aren't I?
8 Mr. H [REDACTED]: The Thursday before that, last Thursday, I had a
9 negative test also.
10 Judge Keefe: Okay. So, you ... Is he rep-- He's represented by
11 your office, right?
12 Unknown Female 1: I guess. It's the Johnstown transfer--
13 Judge Keefe: --Yes.
14 Unknown Female 1: --then I think you appointed us. I have no
15 paperwork, so I don't know.
16 Judge Keefe: Okay. Well, we'll give you some piece of paper so
17 that you can maybe ... figure out how to have a file,
18 even though this is a weird situation. But should we
19 have Ms. Girard talk to him?
20 Unknown Female 1: Sure.
21 Judge Keefe: Sir, you are going to sit down with your lawyer,
22 okay?
23 Unknown Female 1: Actually, we're going to see him. We're going to go
24 out in the hall.
25 Judge Keefe: Right. Very good. Very good.

(People v J. [REDACTED] H. [REDACTED])

1 (OFF THE RECORD - Counter 2:37:00 to 3:02:14.)
2 Judge Keefe: Mr. H. [REDACTED]. Okay, Mark ... Oh, Mr.--
3 Unknown Female 1: --H. [REDACTED].
4 Judge Keefe: H. [REDACTED]. Okay, what happened? Mr. H. [REDACTED].
5 Mr. H. [REDACTED]: Yeah.
6 Judge Keefe: What do you have to say to me?
7 Mr. H. [REDACTED]: I was ... She doesn't--
8 Judge Keefe: --What? I can't hear you.
9 Mr. H. [REDACTED]: No one believes in the false positive test, so I don't
10 understand that. I got retested. I have never tested
11 positive.
12 Unknown Male: Your Honor, we have an update from the VA.
13 Judge Keefe: Huh?
14 Unknown Male: We have an update from the VA.
15 Judge Keefe: You do?
16 Unknown Female 2: We know that the test from the 21st was negative,
17 okay? He still tested positive for the 19th. That
18 stands as a positive. It's not a false positive. There
19 is no question about it.
20 Unknown Female 1: Can you tell the judge what I just saw in here?
21 Judge Keefe: Is ... Is the head of the mentors gone?
22 Unknown Female 1: I think he was out in the hallway with someone.
23 Judge Keefe: Can someone go get him? Okay. So, we'll see you
24 next week, okay?
25 Unknown Female 1: 8/29.

1 Judge Keefe: Sir, look it ... Look it. Tell me again where you
2 served.
3 Mr. H [REDACTED]: Iraq.
4 Judge Keefe: Iraq. In combat? Serious stuff?
5 Mr. H [REDACTED]: Sometimes.
6 Judge Keefe: Well, could you have been killed?
7 Mr. H [REDACTED]: Yes.
8 Judge Keefe: Did you kill anybody, as far as you know?
9 Mr. H [REDACTED]: I don't want to talk about that, sir.
10 Judge Keefe: I understand that. Okay. Great. Okay. Now, you're
11 sitting here in this court having pled to a charge in
12 another jurisdiction under the condition you come in
13 and do this program, right? Okay. Now, let me see
14 if I can get you an answer. Have you killed anybody
15 here in Albany in the past week?
16 Mr. H [REDACTED]: No.
17 Judge Keefe: Okay. Good. So, if you had killed somebody, that
18 would be really bad. If, in fact, you smoked
19 marijuana in the last week, who the hell cares, right?
20 Who the hell cares? Now, hold on. Hold on.
21 Listen--
22 Unknown Female 1: --Well, we kind of do, Your Honor.
23 Judge Keefe: Hold on. Hold on. I'm sorry. I am going to wrap
24 this up because I have other things to do. Okay? So,
25 I am not going to get into a big deal about false

1 positives and non-false positives and all this other
2 baloney stuff, right? We're testing you because
3 you're not supposed to be smoking marijuana, okay?
4 If we had done your case in the normal way of doing
5 cases, that would mean lawyers sitting down and
6 negotiating a deal and signing a contract into vet
7 court, the way we are supposed to do. Your contract
8 would say that you recognize and you acknowledge
9 that any time you are tested, whenever it's positive,
10 it's positive. That's what the contract would say,
11 okay? So, the bottom line is in this case, this is a
12 crazy case. Nothing to do with you. It wasn't your
13 fault how we started this case, right? It was the
14 veteran's mentor's program fault, the way we started
15 this case, okay? So ... But, nonetheless, I don't have
16 a contract where you signed a contract and initialed
17 the ... this ... the paragraph that says, "I recognize
18 that if I am tested positive, it is a positive test." So,
19 now you're sitting here saying, "Oh, no. It wasn't a
20 positive test. It was a false positive test." Well, I'm
21 sorry, you're in Vet Track, so a test is a test and
22 when you are tested and you are positive, that's a
23 violation and we expect you to be honest with us.
24 So, having said that, we'll see you in a week, okay?
25 And we'll see how this goes. Thank you for your

(People v. [REDACTED] H [REDACTED])

service. We'll see you in one week.

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CERTIFICATION

I, LISA SAVARIA an Assistant Administrative Officer of
the State Commission on Judicial Conduct, do hereby certify that the
foregoing is a true and accurate transcript of the audio recording
described herein to the best of my knowledge and belief.

Dated: December 12, 2013

Lisa Savaria

Lisa Savaria

EXHIBIT 2

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

In the Matter of the Proceeding
Pursuant to Section 44, subdivision 4,
of the Judiciary Law in Relation to

AMENDED
ANSWER

THOMAS K. KEEFE

a Judge of the Albany City Court,
Albany County.

The undersigned Respondent amends his answer previously submitted in response to the charges, to read as follows:

1. Admits the allegations contained in paragraphs 1, 2, 4, 6, 7, 9 through 17, 19, 22, 23, 27, 28 through 31, 32, 34, 35, 37, 42, 43, 46 through 49, 54, 55, 58, 63 through 68, 70, 73 through 78, 81, 84, 87, 90 through 94, 97, 98, 101, 102, 105 through 108, 119, 120, 122 through 124, 126 through 130, 132 through 134, 137 through 143, and 145 through 149.
2. Denies knowledge or information sufficient to form a belief as to the truth of the allegations of paragraphs 24, 33, 38, 39, 40, 56, 57, 100, 114, and 121.
3. Denies the allegations contained in paragraphs 3, 25, 26, 36, 44, 45, 52, 53, 59, 60, 61, 71, 79, 82, 83, 85, 88, 89, 95, 96, 99, 103, 104, 109 through 113, 115 through 117, 125, 135, 136, 144, and 150.
4. As to the allegations contained in paragraph 5, respondent admits so much thereof that alleges impatient, discourteous and undignified remarks to prosecutors who appeared before him and denies each and every other allegations in said paragraph.
5. As to the allegations contained in paragraph 8, respondent denies except for so much as is verified by the audio recording introduced as evidence by the Commission.
6. As to the allegations contained in paragraph 18, respondent denies except for so much as is verified by the audio recording introduced as evidence by the Commission.
7. As to the allegations contained in paragraph 20, respondent denies a lengthy diatribe.

8. As to the allegations contained in paragraph 21, respondent denies so much as allege he "continue to repeatedly claim".

9. As to the allegations contained in paragraph 41, respondent denies that he had learned of Scott Chestnut's death on September 11, 2013 and denies that his death was "alleged" to be from an overdose of heroin and denies the implication that the statement was made without provocation of the Assistant District Attorney.

10. As to the allegations contained in paragraph 50, respondent denies that when "Ms. Chance attempted to state her position, Respondent abruptly cut her off, stating "Okay, okay. Fine. Court's closed," without giving her an opportunity to be heard."

11. As to the allegations contained in paragraph 51, respondent denies that the dismissal was sua sponte and that the motion needed to be in writing or that CPL 170.30, 170. 45 and 210.45 are applicable.

12. As to the allegations contained in paragraph 62, respondent denies so much of said allegation as alleges that respondent created an appearance of impropriety.

13. As to the allegations contained in paragraph 69, respondent denies that he changed the sentence.

14. As to the allegations contained in paragraph 72, respondent denies creating an appearance of impropriety.

15. As to the allegations contained in paragraph 80, respondent denies so much of said allegations as allege lack of notice to the attorneys.

16. As to the allegations contained in paragraph 86, respondent denies that he acknowledged having had an improper ex parte conversation with the defendant outside the courtroom.

17. As to the allegations contained in paragraph 118, respondent denies that the conversation was improper or that it was regarding defendant's violation of her drug court agreement.

18. As to the allegations contained in paragraph 131, respondent denies that he criticized the defense rejection of the prosecutor's plea offer to a violation and admit to all other allegations in the paragraph.

19. By and for a First Affirmative Defense regarding Charge II.

The failure of the People to be ready on the date of trial required dismissal of the action unless the People obtained an adjournment on consent or moved for an adjournment for good cause shown. Respondent had no choice under the circumstances but to dismiss.

20. By and for a Second Affirmative Defense regarding Charge II.

The sole recourse of the People where they believe the Court has made an error of law is to perfect an Appeal pursuant to the CPL.

21. By and for a Third Affirmative Defense regarding Charge III

The Peoples failure to prosecute this matter for nine years justified the closure of the court's file and the act of noting "3030 Dead. Close" on the file was a mere ministerial act.

22. By and for a Fourth Affirmative Defense regarding Charge IV.

The alleged ex parte communication does not allege to have affected a substantial right of any party nor is it alleged that the judge reasonably believed that a party would gain a procedural or tactical advantage, or could gain a procedural or tactical advantage, as a result of the alleged ex parte communication.

23. By and for a Fifth Affirmative Defense regarding Charge V

The alleged ex parte communication does not allege to have affected a substantial right of any party nor is it alleged that the judge reasonably believed that a party would gain a procedural or tactical advantage, or could gain a procedural or tactical advantage, as a result of the alleged ex parte communication.

24. By and for a Sixth Affirmative Defense regarding Charge VII.

The alleged ex parte communication does not allege to have affected a substantial right of any party nor is it alleged that the respondent reasonably believed that a party would gain a procedural or tactical advantage, or could gain a procedural or tactical advantage, as a result of the alleged ex parte communication.

25. By and for a Seventh Affirmative Defense as to Charge VIII.

The alleged ex parte communication does not allege to have affected a substantial right of any party nor is it alleged that the respondent reasonably believed that a party would gain a procedural or tactical advantage, or could gain a procedural or tactical advantage, as a result of the alleged ex parte communication.

26. By and for an Eighth Affirmative Defense regarding Charge X.

The alleged ex parte communication does not allege to have affected a substantial right of any party nor is it alleged that the respondent reasonably believed that a party would gain a procedural or tactical advantage, or could gain a procedural or tactical advantage, as a result of the alleged ex parte communication.

27. By and for a Ninth Affirmative Defense regarding Charge XI.

The alleged ex parte communication does not allege to have affected a substantial right of any party nor is it alleged that the respondent reasonably believed that a party would gain a procedural or tactical advantage, or could gain a procedural or tactical advantage, as a result of the alleged ex parte communication.

28. By and for a Tenth Affirmative Defense regarding Charge XII.

The alleged conduct did not affect a substantial right of the defendant as the defendant had fully consulted with her attorney on numerous occasions and the stipulation was made, without the objection of her attorney, solely to determine if the defendant was an appropriate candidate for participation in drug court.

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

In the Matter of the Proceeding
Pursuant to Section 44, subdivision 4,
of the Judiciary Law in Relation to

VERIFICATION

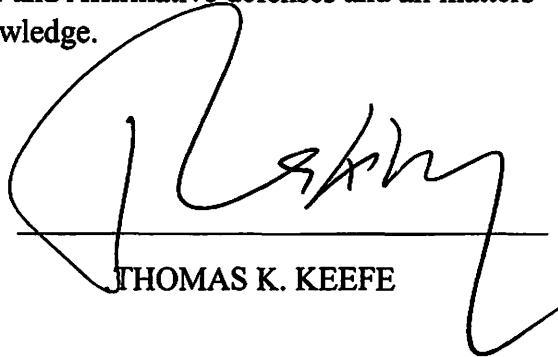
THOMAS K. KEEFE

a Judge of the Albany City Court,
Albany County.

STATE OF NEW YORK)
 : SS
COUNTY OF ALBANY)

THOMAS K. KEEFE, being duly sworn, deposes and says:

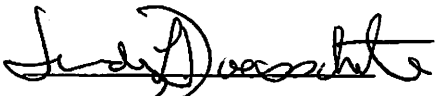
1. I am the Respondent in the above captioned matter.
2. I have read the foregoing Amended Answer and Affirmative defenses and all matters stated therein are true to the best of my knowledge.



THOMAS K. KEEFE

Sworn to before me this 10th

Day of September 2015



Notary Public

JUDY L. DOESSCHATE
NOTARY PUBLIC-STATE OF NEW YORK
No. 02DO6259352
Qualified in Albany County
My Commission Expires April 09, 2016

EXHIBIT 3



ALBANY CITY COURT
CIVIL PART

ROOM 209, CITY HALL
ALBANY, NEW YORK 12207
(518) 453-4640
FAX (518) 453-8679

JUDGES
WILLIAM A. CARTER
THOMAS K. KEEFE
GARY F. STIGLMEIER
HELENA HEATH
RACHEL L. KRETZER

Anthony J. Mancino
Chief Clerk

August 5, 2016

The Honorable Thomas Breslin, Administrative Judge
Albany County Judicial Center
6 Lodge Street
Albany, NY 12207

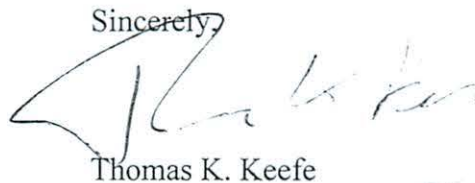
Re: Retirement and Resignation

Dear Tom;

This is to serve as notice that I am retiring and resigning my position as Albany City Court Judge, to be effective September 30, 2016.

It has been a pleasure and an honor to serve the residents of the City of Albany and the State of New York in this capacity.

Sincerely,



Thomas K. Keefe