

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

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

REBECCA MCGOWAN,

STIPULATION

a Justice of the Jewett Town Court,
Greene County.
----- X

THE FOLLOWING IS HEREBY STIPULATED by and between Robert H. Tembeckjian, Administrator and Counsel to the Commission on Judicial Conduct (hereinafter "Commission"), the Honorable Rebecca McGowan, the respondent in this proceeding, and her attorney, Scott W. Bush, of Roche, Corrigan, McCoy & Bush, PLLC.

1. This Stipulation is presented to the Commission in connection with a formal proceeding pending against respondent.
2. Respondent is not and has never been an attorney. She has been a Justice of the Jewett Town Court, Greene County, since January 2005. Her current term of office expires on December 31, 2008.
3. Respondent was served with a Formal Written Complaint dated October 19, 2008, a copy of which is annexed as Exhibit A.
4. Respondent submitted an Answer on November 28, 2008, a copy of which is annexed as Exhibit B.
5. By Order dated March 6, 2008, the Commission designated Jay C. Carlisle, Esq., as referee to hear and report proposed findings of fact and conclusions of

law. The referee has scheduled a hearing to be held on July 17-18, 2008.

6. Respondent tendered her resignation, dated July ¹⁵ 2008, effective July 31, 2008, and affirms that she will neither seek nor accept judicial office at any time in the future. A copy of respondent's letter of resignation is annexed as Exhibit C.

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

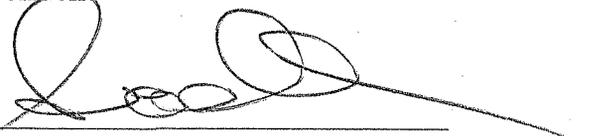
8. All parties to this Stipulation respectfully request that the Commission close the pending matter based upon this Stipulation.

9. Respondent waives confidentiality as provided by Section 45 of the Judiciary Law to the limited extent that this Stipulation will be made public if accepted by the Commission.

Dated: 7/15/2008


Honorable Rebecca McGowan
Respondent

Dated: 7/15/2008


Scott W. Bush Esq.
Roche, Corrigan, McCoy & Bush, PLLC
Attorney for Respondent

Dated: 7/17/2008

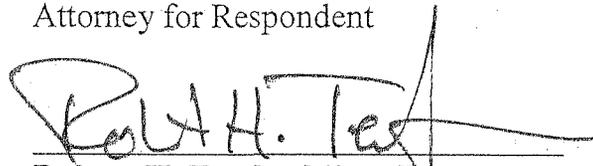

Robert H. Tembeckjian, Esq.
Administrator & Counsel to the Commission
(Jill S. Polk, Of Counsel)

EXHIBIT A

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

REBECCA MC GOWAN,

a Justice of the Jewett Town Court,
Greene County.

**NOTICE OF FORMAL
WRITTEN COMPLAINT**

NOTICE is hereby given to respondent, a Justice of the Jewett Town Court, Greene 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 her to serve the Commission at its Albany office, The Hampton Plaza, 38-40 State Street, Albany, New York 12207, with her verified Answer to the specific paragraphs of the Complaint.

Dated: October 15, 2007
New York, New York

ROBERT H. TEMBECKJIAN
Administrator and Counsel
State Commission on Judicial Conduct
61 Broadway
New York, New York 10006
(212) 809-0566

To: Hon. Rebecca McGowan
Jewett Town Justice
P.O. Box 132
Jewett, New York 12444

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

REBECCA McGOWAN,

a Justice of the Jewett Town Court,
Greene County.

FORMAL
WRITTEN COMPLAINT

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 Rebecca McGowan ("respondent"), a Justice of the Jewett Town Court, Greene County.
3. The factual allegations set forth in Charges I through III 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 has been a Justice of the Jewett Town Court, Greene County, since January 2005. She is not an attorney. She is a social studies teacher and a hostess at a restaurant.

CHARGE I

5. On or about January 24, 2005, respondent granted special consideration to her brother-in-law, Charles Tatar, who is also the son of her co-justice, Stanley Tatar, by dismissing two charges against Charles Tatar, on Judge Tatar's request.

Specifications to Charge I

6. Charles Tatar is respondent's brother-in-law, by virtue of his marriage to respondent's sister. Charles Tatar is also the son of respondent's co-justice, Stanley Tatar.

7. On or about July 23, 2004, Charles Tatar was issued an Appearance Ticket charging him with a violation of section 6A of the Jewett Dog Control Law, which required him to appear in Jewett Town Court on August 5, 2004. A copy of the appearance ticket is attached hereto as Exhibit 1. Charles Tatar did not appear in court on August 5, 2004, or at any time thereafter.

8. On or about September 14, 2004, Charles Tatar was issued another Appearance Ticket charging him with another violation of section 6A of the Jewett Dog Control Law, which required him to appear in Jewett Town Court on October 7, 2004. A copy of the appearance ticket is attached hereto as Exhibit 2. Charles Tatar did not appear in court on October 7, 2004, or at any time thereafter.

9. In 2004, Stanley Tatar was the only justice of the Jewett Town Court. Judge Tatar did not disqualify himself or otherwise act to transfer the charges issued to his son to another court. Neither Judge Tatar nor anyone else notified the District

Attorney about the charges against Charles Tatar, which were not adjudicated or otherwise acted upon until January 2005, when respondent took judicial office.

10. On or about January 24, 2005, which was respondent's first day on the bench, Judge Tatar presented respondent with the two Appearance Tickets issued to Charles Tatar and, without notice to the District Attorney, requested that respondent dismiss both charges. Charles Tatar did not appear.

11. Notwithstanding that Charles Tatar is married to her sister and is the son of her co-justice, respondent did not disqualify herself. Instead, she dismissed both charges against Charles Tatar, marking the appearance tickets "Dismissed" and signing them. The District Attorney was not aware of the charges or the fact that respondent had dismissed them until after she had done so.

12. 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 she failed to respect and comply with the law and failed to act at all times 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, allowed a family relationship to influence the judge's judicial conduct, in violation of Section 100.2(B) of the Rules, and lent the prestige of judicial office to advance the private interest of her relative, in violation of

Section 100.2(C) of the Rules; and failed to perform the duties of judicial office impartially and diligently in that she failed to be faithful to the law and maintain professional competence in it, in violation of Section 100.3(B)(1) of the Rules, considered an improper *ex parte* communication, in violation of Section 100.3(B)(6) of the Rules, and failed to disqualify herself in proceedings in which her impartiality might reasonably be questioned, in violation of Section 100.3(E)(1)(d)(i) of the Rules.

CHARGE II

13. In 2005 and 2006, respondent failed to disqualify herself and presided over five matters in which the defendants were either her relatives or a family friend, and granted special consideration to the defendants.

Specifications to Charge II

14. On or about January 24, 2005, respondent presided over and dismissed two violations of the local dog control ordinance filed against her brother-in-law, Charles Tatar, at the request of the defendant's father, respondent's co-justice Stanley F. Tatar, without notice to the prosecution and without requiring any appearance by the defendant in court. Respondent made no disclosure of her relationship with the defendant.

15. On or about July 25, 2005, respondent arraigned the defendant in *People v. Shane Andrus* on charges of Criminal Possession of Marijuana and Unlawful Growing of Cannabis, notwithstanding that the defendant is her second cousin. The District Attorney was not present. Respondent released the defendant on recognizance

and thereafter granted three adjournments of the case until in or about December 2005, before transferring the matter to her co-justice.

16. In or about February 2006, respondent failed to disqualify herself from *People v. Shane Andrus*, in which the defendant was charged with speeding, notwithstanding that the defendant is her second cousin. Respondent made no disclosure of her relationship with the defendant. When the defendant failed to appear, respondent failed to suspend his license, as required by law.

17. In or about July 2005, in *People v. Jason Whitcomb*, in which the defendant was charged with burglary and was remanded to jail in lieu of \$2,500 bail set by respondent's co-justice Stanley F. Tatar, respondent issued an order releasing the defendant from jail, at the *ex parte* request of Gerald Whitcomb, the defendant's grandfather who was a friend of respondent's family. Respondent did so notwithstanding that the case was assigned to Justice Tatar, and notwithstanding warnings from the court clerk that she not take action in the case because it was not assigned to her.

18. On or about August 14, 2006, respondent failed to disqualify herself from *People v. Joshua Holdridge*, notwithstanding that the defendant is her second cousin. The defendant was charged with speeding and several other violations of the Vehicle and Traffic Law, including three charges of operating an unregistered or improperly registered vehicle. Respondent made no disclosure of her relationship with the defendant. Respondent negotiated a plea on behalf of the defendant with one of the troopers who had issued the pending tickets. Although it was agreed that the defendant would plead guilty to the speeding charge, and that all but the three remaining

registration charges would be dismissed, respondent reduced the speeding charge to Disobeying a Traffic Control Device, and dismissed all the other charges against the defendant, including the three registration charges.

19. 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 she failed to respect and comply with the law and failed to act at all times 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, allowed family and social relationships to influence the judge's judicial conduct, in violation of Section 100.2(B) of the Rules, and lent the prestige of judicial office to advance the private interests of the defendants, in violation of Section 100.2(C) of the Rules; and failed to perform the duties of judicial office impartially and diligently in that she failed to be faithful to the law and maintain professional competence in it, in violation of Section 100.3(B)(1) of the Rules, engaged in unauthorized *ex parte* communications and failed to accord the prosecution the right to be heard according to law, in violation of Section 100.3(B)(6) of the Rules, and failed to disqualify herself in proceedings in which her impartiality might reasonably be questioned, in violation of Section 100.3(E)(1)(d)(i) of the Rules.

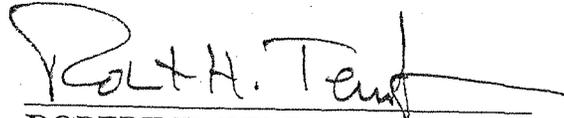
CHARGE III

20. As set forth on the annexed Schedule A, from in or about August 2005 through at least October 24, 2006, respondent failed to make timely deposits of court funds from eight cases within 72 hours of receipt, as required by Section 214.9(a) of the Uniform Rules for the Trial Courts (22 NYCRR Section 214.9[a]).

21. 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 respect and comply with the law and failed to act at all times in a manner that promotes public confidence in the integrity 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 she 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 diligently discharge her administrative responsibilities, in violation of Section 100.3(C)(1) 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: October 15, 2007
New York, New York



ROBERT H. TEMBECKJIAN
Administrator and Counsel
State Commission on Judicial Conduct
61 Broadway
New York, New York 10006
(212) 809-0566

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

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

VERIFICATION

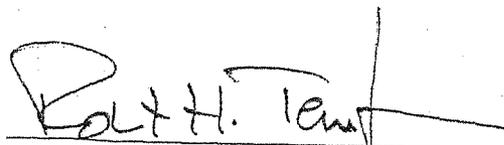
REBECCA McGOWAN,

a Justice of the Jewett Town Court,
Greene County.
-----X

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.



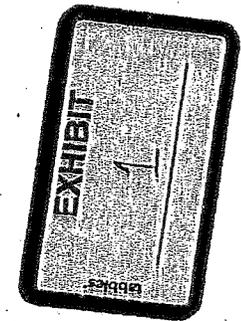
Robert H. Tembeckjian

Sworn to before me this
15th day of October 2007



Notary Public

Melissa R. DiPalo
Notary Public, State of New York
No. 02DI6065643
Qualified in Kings County
Commission Expires 10/2009



GEN 71 (REV. 6/85)

APPEARANCE TICKET
New York State Police

0408/2006
193130287M
09/15/70
1124 PM
1124 PM

Issued To: CHARLES TATAR
NAME OF DEFENDANT
122 PENE TRAILS
STREET AND NUMBER
Jewett
CITY OR TOWN
NY
STATE
12444
ZIP CODE
DATE OF BIRTH: 09/15/70

You are hereby directed to appear in the court described below on
08/05/04 at 7:00 PM in connection with your alleged
commission of the offense of BOUNDS AT LARGE contrary to the
provisions of section GA of the Jewett Pub Control Law law.
Name of court: T. JEWETT
Location of court: P.O. Box 132 Jewett NY 12444

* NOTE - If you fail to appear on the date and at the time indicated, the court may issue a summons or warrant for your arrest (Criminal Procedure Law Section 150.60).

If you have posted bail, the bail will become forfeit upon your failure to comply with the directions of this ticket (Criminal Procedure Law Section 150.30).

Issued and subscribed by:
[Signature]
SIGNATURE OF MEMBER
4873
SHIELD
F 3
TROOP ZONE
42
STATION
07/23/04
DATE ISSUED

WHITE - Respondent BLUE - ... YELLOW - Division

APPEARANCE TICKET
New York State Police

Dismissed
RMBoul # 19 3430 0287 m

Issued To: CHARLES S. TATAR
NAME OF DEFENDANT
22 PIN TERRACE Jewett NY 09/15/70
STREET AND NUMBER CITY OR TOWN STATE DATE OF BIRTH
12444
ZIP CODE

You are hereby directed to appear in the court described below on
October 7, 2004 at 7:00 P in connection with your alleged
commission of the offense of DOG RUNNING AT LARGE contrary to the
provisions of section 6A of the JEWETT Dog Control law.

Name of court TJ JEWETT
Location of court CR-29C/296 JEWETT PO Box 122 Jewett NY 12444

* NOTE - If you fail to appear on the date and at the time indicated, the court may issue a summons or warrant for your arrest (Criminal Procedure Law Section 150.60).

If you have posted bail, the bail will become forfeit upon your failure to comply with the directions of this ticket (Criminal Procedure Law Section 150.30).

Issued and subscribed by:
[Signature] 4582
SIGNATURE OF MEMBER SHIELD
E J 42
TROOP ZONE STATION
09/14/04
DATE ISSUED

WHITE - Respondent BLUE - Court YELLOW - Division



Schedule A to Formal Written Complaint

Late and Undeposited Funds

<u>Receipt Number</u>	<u>Name</u>	<u>Date of Receipt</u>	<u>Amount Received</u>	<u>Amount Deposited</u>	<u>Date of Deposit</u>	<u>Deposited Late By</u>
2468	R. Foster	8/8/05	\$140.00	\$140.00	8/23/05	12 days
2469	M. Kalmanas	8/8/05	155.00	155.00	8/23/05	12 days
2482	A. Kellerhouse	3/5/06	20.00	20.00	3/21/06	13 days
2485	A. Albanese	3/23/06	145.00	145.00	4/18/06	23 days
2491	A. Marek	3/20/06	100.00	100.00	5/17/06	55 days
2406	J. Vitelli	9/25/06	15.00	Undeposited*		
2408	J. Vitelli	9/25/06	15.00	Undeposited*		

* These funds have not been deposited through bank statement ending 9/30/06, which was the last available bank statement at the time of analysis. Respondent's cashbook through October 2006 indicates that the last deposit date was 10/24/06. The Kaminski two Vitelli receipts do not appear to have been deposited through that date.

EXHIBIT B

Honorable Rebecca M McGowan
Jewett Town Justice
P.O. Box 132
Jewett, NY 12444

New York State
Commission on Judicial Conduct
38-40 State Street
Albany, NY 12207

Dear Madame:

Enclosed please find by verified answer to the Official Complaint served upon me. To the best of my recollection, the following is a true and accurate account. I would like to begin by describing the community in which I preside so that you may have a deeper understanding of my current situation. Jewett is a small rural community and as such, it is very difficult to not know the majority of the population. I now understand the intent of the law, in regards to presiding over cases where a party is personally known to me. I agree with the intent of the law, however, I find it difficult to adhere to in a small community. My family has lived in this community since 1787. I have encountered a similar situation, as a teacher in the local district. Larger schools have rules that disallow a teacher to have his or her own children, or other relatives as students. This works when there are other teachers in the same grade and subject area. I have had 2 of my own children as students because I am the only one who teacher my grade and subject level. I am very aware of others feelings and ensure that my actions are always fair and equitable. No one has ever indicated that I may be impartial to my children. I feel that the situation in court is very similar. I make every possible attempt to make sure that my judgments are fair, impartial and that the rights of the defendant are provided at all costs.

Charge I. I unfortunately did dismiss those charges on my first night at court. My co-justice assured me that because Charlie and I were not blood relatives, it was no big deal. I was also told that it was only a local law. I was uncomfortable dismissing the charges, but did so anyway. I realize that my actions were wrong and I regret what I did. It was never my intention to lend the prestige of the judicial office to advance the private interest of a family member. . I had no Ex Parte communication with any one.

Charge II.

Paragraph 13. I never granted special consideration to any defendant based on personal knowledge of them. That is not the type of person I am.

Paragraph 14. This is the same as Charge I. The only addition is the accusation that the prosecution was not consulted. To the best of my knowledge, there is no prosecution to notify on a local law.

Paragraph 15. I admit that I arraigned Shane Andrus on July 25, 2005. I only arraigned him because; I was in court that night. He and his attorney come into court. The case was not on the calendar. His attorney requested that the appearance be considered an arraignment. I did disclose to both his attorney and ADA Anne Marie Rabin that Mr. Andrus was my second cousin. Neither of them had an issue with that. The ADA and the defendant's attorney agreed to the adjournments and then notified the court of their actions. I happened to be the one who wrote the memo on the docket because I answered the phone. I had no further action in the case.

Paragraph 16. As previously stated. I had no knowledge of this speeding ticket and was unaware that it was assigned to me. I do not have access to the courts computer. I only know what cases are on the calendar for any given evening when the clerk prints the calendar out. There was no way for me to know that this case existed. I have not touched this case nor do I intend to.

Paragraph 17. I did release Jason Whitcomb from jail in July of 2005. I only spoke to MR. Whitcombs grandfather after Judge Tatar refused to speak with him. My father's relationship with the defendants grandfather had no influence on my actions whatsoever. After analyzing the situation and attempting to discuss it with Judge Tatar, I found that our court was in gross violation of section 180.80 of the Penal law. I felt that by not acting, I was just as guilty as Judge Tatar of violating a defendant's right. I only acted after consulting with ADA Anne Marie Rabin in regards to the matter. She agreed that defendant should be released based on his young age

and the length of time spent in jail. I felt that by taking action I was upholding the integrity of the court as well as the trust placed in our legal system.

Paragraph 18. I did handle the case against Joshua Holdridge. As preciously stated, I do not know how the speeding charge was reduced to disobeying a traffic control device. That was not what I wrote on my disposition. The officer did not show up for court that night after being duly notified of the trial. The attorney asked for a dismissal, which I denied. If my intent were to allow family relationships to influence my decisions, I would have dismissed all of the charges based on the failure to show by the prosecution. Instead, I got the officer on the phone and allowed the attorney and the officer to work out a plea agreement. The three registration charges were dismissed based on evidence provided by the defendant's attorney showing that the vehicle was actually registered and inspected, however the dealer mistakenly put the wrong date on the temporary sticker. I would have dismissed those charges based on the same evidence for any defendant.

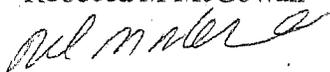
Paragraph 19.

In regards to Article 6, section 22(a) section 44(1) I have always tried to uphold the integrity and independence of the judiciary . I have never nor will I ever allowed family or social relationships to influence my conduct or decisions. I have made some mistakes and handled some cases that I should not have. However, under no circumstance was there maliciousness or the intent to undermine the intent of the Constitution of the United States or the New York State Constitution. I have never denied the prosecution the right to be heard and I think that the officers and the ADA would agree with that. I am known for giving the officers every opportunity to be heard, even if that means rescheduling or phone conferences. Unfortunately, I was not as knowledgeable about when I should and should not have disqualified my self. However, I am very aware of those situations now.

I sincerely hope that you take these statements and explanations into consideration when determining any further actions. I will accept whatever the committee determines to be appropriate. I do deeply apologize and regret any possible acts that made the court look biased. I truly do believe in the law and the judicial system. I also hope that you take into consideration the unique situations that arise in a small community.

Sincerely

Rebecca M McGowan

A handwritten signature in cursive script, appearing to read "Rebecca M McGowan".



Rebecca M McGowan
947 Route 17
Jewett, NY 12444
518 734 3889

Town of Jewett Board
P.O. Box 132
Jewett, NY 12444
518 263 4626

RE: Resignation
July 15, 2008

Dear Members of the Board:

It is with great regret, that it has become necessary to resign my position as Town Justice for the Town of Jewett. Please accept this letter dated July 15, 2008 that my resignation is effective July 31, 2008. I deeply apologize for any inconvenience this may cause.

Sincerely

Rebecca M McGowan

