

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

WILLIAM E. MONTGOMERY,

STIPULATION


a Justice of the Colden Town Court,
Erie County.

IT IS HEREBY STIPULATED AND AGREED by and between Robert H. Tembeckjian, Administrator and Counsel to the Commission, and the Honorable William E. Montgomery ("Respondent"), who is represented in these proceedings by Michael S. Taheri, of Taheri & Todoro, PC, as follows:


1. Respondent has been a Justice of the Colden Town Court, Erie County, since January 1, 1983. His current term expires on December 31, 2015. Respondent is not an attorney.
2. Respondent was served with a Formal Written Complaint dated March 4, 2014, containing two charges. The first charge alleges that Respondent facilitated the filing of a designating petition for his candidacy for elective judicial office that was falsely notarized and thereafter neither refused the nomination nor withdrew his candidacy. The second charge alleges that Respondent arraigned a defendant on alcohol-related and other vehicle and traffic charges, drove the defendant home in the early morning hours following her arraignment, and thereafter presided over the case through the imposition of sentence.

3. The Formal Written Complaint is appended as Exhibit 1.
4. Respondent filed an Answer dated April 16, 2014, which is appended as Exhibit 2.
5. Respondent tendered his resignation, dated June 5, 2014, a copy of which is annexed as Exhibit 3. Respondent affirms that he will vacate judicial office as of August 31, 2014.
6. 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.
7. Respondent affirms that, after vacating judicial office, he will neither seek nor accept judicial office at any time in the future.
8. Respondent understands that, should he abrogate the terms of this Stipulation and hold any judicial position at any time, the present proceedings before the Commission will be revived and the matter will proceed to a hearing before a referee.
9. 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.
10. 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.

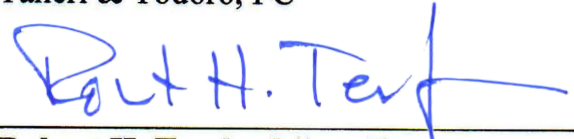
Dated:


Honorable William E. Montgomery
Respondent

Dated:


Michael S. Taheri, Esq.
Taheri & Todoro, PC

Dated: August 28, 2014


Robert H. Tembeckjian, Esq.
Administrator and Counsel to the Commission
(David M. Duguay, Of Counsel)

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

EXHIBIT 1

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

WILLIAM E. MONTGOMERY,

a Justice of the Colden Town Court,
Erie County.

**NOTICE OF FORMAL
WRITTEN COMPLAINT**

NOTICE is hereby given to Respondent, William E. Montgomery, a Justice of the Colden Town Court, Erie 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 Rochester office, 400 Andrews Street, Suite 700, Rochester, New York 14604, with his verified Answer to the specific paragraphs of the Complaint.

Dated: March 4, 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: Michael S. Taheri, Esq. & Peter J. Todoro, Esq.
Attorneys for Respondent
Taheri & Todoro, PC
388 Evans Street
Williamsville, New York 14221

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**

WILLIAM E. MONTGOMERY,

a Justice of the Colden Town Court,
Erie 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 William E. Montgomery ("Respondent"), a Justice of the Colden Town Court, Erie County.

3. The factual allegations set forth in Charges I and II 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 Colden Town Court, Erie County, since January 1, 1983. His current term expires on December 31, 2015. Respondent is not an attorney.

CHARGE I

5. In or about July 2011, Respondent personally collected signatures on an Independence Party Designating Petition for his candidacy for elective judicial office in the Town of Colden. Notwithstanding that respondent is neither an enrolled voter of the Independence Party nor a notary public or commissioner of deeds, notwithstanding that he knew that the signatures he collected on the petition were not witnessed by a member of the Independence Party, a notary public or a commissioner of deeds, as required by Section 6-132 of the Election Law, and notwithstanding that he learned prior to its filing that the petition had been falsely notarized by a person who had not witnessed the signatures, Respondent took no steps to prevent filing of the petition. Respondent was subsequently designated as the Independence Party candidate for Colden Town Justice but neither refused the nomination nor withdrew his candidacy on the Independence Party line.

Specifications to Charge I

6. From on or about July 7, 2011, through on or about July 9, 2011, Respondent personally circulated a one-page Independence Party Designating Petition ("petition") on which he was listed as the party's candidate for Colden Town Justice. The petition also listed three candidates for other elective offices in the Town of Colden. (A copy of the petition is annexed hereto as Exhibit 1.)

7. Ten people signed Respondent's petition.

8. As required by Election Law 6-132, the petition provided notice that the signatures on the petition could only be witnessed by either a qualified voter of New

York State who was an enrolled voter of the Independence Party, or a notary public or commissioner of deeds.

9. At or about the time that Respondent obtained the signatures on the petition, he was neither an enrolled voter of the Independence Party nor a notary public or commissioner of deeds.

10. After Respondent had obtained the petition signatures, but before the petition was filed, the Republican Commissioner of the Erie County Board of Elections ("ECBOE"), Ralph M. Mohr, informed Respondent that he (Respondent) was not qualified to witness the signatures on the petition.

11. Respondent subsequently gave the petition to Town of Colden Republican Party Chair, Terri Kloiber.

12. Prior to the filing of the petition, Respondent learned that it had been notarized by Colden Town Clerk, Alice M. Wangelin. Respondent knew that Ms. Wangelin had not witnessed the signatures on the petition and that her notarization was improper. Respondent took no action to prevent the filing of the fraudulent petition.

13. Respondent's petition was filed with the ECBOE on or about July 14, 2011.

14. Subsequent to the filing of the petition, Respondent learned that objections had been filed with the ECBOE alleging that Ms. Wangelin "did not witness the signatures" contained on the petition.

15. On or about August 2, 2011, Respondent sent a letter to the ECBOE advising that, in lieu of appearing at a hearing on the objection, he was

“acknowledge[ing] there to be an insufficient number of valid signatures contained on the petition to qualify [his] candidacy on the Independence Party line.”

16. On or about August 8, 2011, Commissioner Mohr found the petition to be “presumptively valid” with respect to Respondent, and Respondent was subsequently designated the Independence Party candidate for Colden Town Justice.

17. Respondent took no action to refuse the nomination or to withdraw as the Independence Party candidate for Colden Town Justice.

18. Respondent received 66 votes for Colden Town Justice on the Independence Party line in the November 2011 Town of Colden general election.

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 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; failed to conduct his extra-judicial activities as to minimize the risk of conflict with judicial obligations, in that he failed to conduct his extra-judicial activities so as not to detract from the dignity of judicial office, in violation of Section 100.4(A)(2) of the Rules; and, as a judge or candidate for elective judicial office, failed to refrain from inappropriate political activity, in that he failed to maintain the dignity

appropriate to judicial office and act in a manner consistent with the impartiality, integrity and independence of the judiciary, in violation of Section 100.5(A)(4)(a) of the Rules.

CHARGE II

20. On or about May 9, 2011, at approximately 12:30 AM, Respondent presided over the arraignment of Catherine A. Weise on alcohol-related and other vehicle and traffic charges. After the arraignment, Respondent drove Ms. Weise to her home. Respondent thereafter presided over Ms. Weise's case through the resolution of charges and sentencing.

Specifications to Charge II

21. On or about May 9, 2011, at or about 12:30 AM, Respondent appeared at the Colden Town Court and arraigned Catherine A. Weise on a felony charge (aggravated unlicensed operation of a motor vehicle in the first degree, in violation of Vehicle and Traffic Law ("VTL") §511[3][a]); a misdemeanor charge (driving while intoxicated, in violation of VTL §1192[3]); and three traffic violations (unlicensed driver, in violation of VTL §509[1]; failure to keep right, in violation of VTL §1120[a]; and failure to yield right of way to an emergency vehicle, in violation of VTL §1144[a]).

22. Respondent failed to electronically record Ms. Weise's arraignment as required by Administrative Order 245-08 issued pursuant to the Rules of the Chief Judge (22 NYCRR §30.1).

23. Respondent, who was socially and professionally acquainted with Ms. Weise, released Ms. Weise on her own recognizance.

24. Respondent offered Ms. Weise a ride to her home after Erie County Sheriff's Deputy Douglas S. Grube, the arresting officer, was unable to provide transportation and Ms. Weise was unable to contact a family member to take her home.

25. Respondent drove alone with Ms. Weise for approximately four miles to her residence where Ms. Weise exited Respondent's vehicle. Respondent then drove to his own residence.

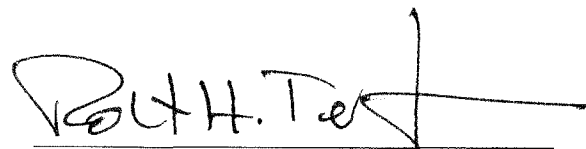
26. On or about June 15, 2011, in accordance with a plea recommendation by Erie County Assistant District Attorney Kristi Ahlstrom, Respondent accepted Ms. Weise's guilty pleas to the misdemeanor charges of aggravated unlicensed operation of a motor vehicle in the second degree (VTL §511[2][a][iv]), and driving while intoxicated (VTL §1192[3]), in satisfaction of all charges. Respondent sentenced Ms. Weise to a conditional discharge, imposed fines and surcharges totaling \$1485, revoked her driving privilege for one year, and required her to execute an affidavit concerning ignition interlock device requirements. She was also required to attend the Drinking Driver Program.

27. 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 another was in a special position to influence him, in violation of Section 100.2(C) of the Rules; and failed to conduct his extra-judicial activities as to minimize the risk of conflict with judicial obligations, in that he failed to conduct his extra-judicial activities so as not to cast reasonable doubt on his capacity to act impartially as a judge, in violation of Section 100.4(A)(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: March 4, 2014
New York, New York

A handwritten signature in black ink, appearing to read "Robert H. Tembeckjian", with a long horizontal stroke extending to the right.

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

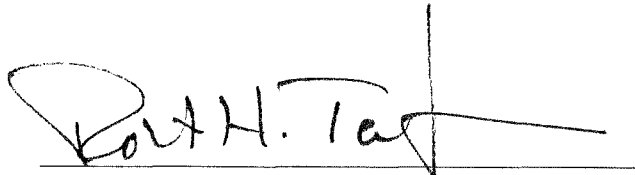
WILLIAM E. MONTGOMERY,

a Justice of the Couden Town Court,
Erie County.

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

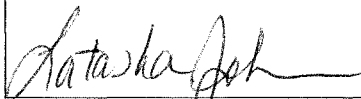
ROBERT H. TEMBECKJIAN, being duly sworn, deposes and says:

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
4th day of March 2014



Notary Public

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

EXHIBIT 1

INDEPENDENCE PARTY DESIGNATING PETITION - Sec. 6-132 ELECTION LAW

I, the undersigned do hereby state that I am a duly enrolled voter of the Independence Party and entitled to vote in the next primary election of such party, to be held on September 13, 2011, that my place of residence is truly stated opposite my signature hereto, and I do hereby designate the following named person (or persons) as a candidate (or candidates) for the nomination of such party for public office or for election to a party position of such party.

| Name(s) of Candidate(s) | Public Office or Party Position | Place of Residence (ALSO POST OFFICE ADDRESS IF NOT IDENTICAL) |
|-------------------------|---|--|
| Stephanie A. Czerniak | Councilman Town of Colden County of Erie State of New York | 8742 Woodview Dr Colden, NY 14032 |
| Gerald F. Pietraszek | Councilman Town of Colden County of Erie State of New York | 9231 Holland Glenwood Rd Glenwood, NY 14069 (Town of Colden) |
| Christina M. Kerlin | Town Clerk Town of Colden County of Erie State of New York | 9281 Holland Glenwood Rd Glenwood, NY 14069 (Town of Colden) |
| William E. Montgomery | Town Justice Town of Colden County of Erie State of New York | 9110 Center St Holland, NY 14080 (Town of Colden) |

I do hereby appoint:

Mary Rose Gaughan, 5338 Briercliff Dr., Hamburg, N.Y. 14075
Sandra Rosenswie, 47 Harlem Rd., West Seneca, N.Y. 14224
Vincent Elom, 2106 Delaware Avenue, #12, Buffalo, N.Y. 14216

Elaina Monte, 84 Angela Ln., Cheektowaga, N.Y. 14225
Nancy Gaughan, 6519 Powers Rd., Orchard Park, N.Y. 14127
Anthony Mingarelli, 79 Circle Lane, Lackawanna, N.Y. 14218

all of whom are enrolled members of the Independence Party, as a committee to fill vacancies in accordance with the provisions of the election law.
In witness whereof, I have hereunto set my hand the day and year placed opposite my signature.

| | Date | Name of Signer Signature Required | Residence | City or Town |
|----|----------|--------------------------------------|-------------------|--------------|
| 1 | 7/7/2011 | [Signature] | 9702 Center St | Colden |
| 2 | 7/7/2011 | [Signature] | 9702 Center St | Colden |
| 3 | 7/7/2011 | [Signature] | 9702 Center St | Colden |
| 4 | 7/7/2011 | [Signature] | 9702 Center St | Colden |
| 5 | 7/7/2011 | [Signature] | 8990 Center St | Colden |
| 6 | 7/7/2011 | [Signature] | 8861 Finch Rd | Colden |
| 7 | 7/7/2011 | [Signature] | 9076 Stanton Rd | Colden |
| 8 | 7/7/2011 | [Signature] | 9830 Crump Rd | Colden |
| 9 | 7/7/2011 | [Signature] | 9717 Partridge Rd | Colden |
| 10 | 7/7/2011 | [Signature] | 9717 Partridge Rd | Colden |
| 11 | , 2011 | | | Colden |
| 12 | , 2011 | | | Colden |
| 13 | , 2011 | | | Colden |
| 14 | , 2011 | | | Colden |
| 15 | , 2011 | | | Colden |

1) STATEMENT OF WITNESS

I, _____ (name of witness) state: I am a duly qualified voter of the State of New York and am an enrolled voter of the Independence Party. I now reside at _____ (Residence address).

Each of the individuals whose names are subscribed to this petition sheet containing _____ (fill in number) signatures, subscribed the same in my presence on the dates above indicated and identified himself to be the individual who signed this sheet. I understand that this statement will be accepted for all purposes as the equivalent of an affidavit and, if it contains a material false statement, shall subject me to the same penalties as if I had been duly sworn.

Dated _____, 2011

COPY

Signature of Witness:

WITNESS IDENTIFICATION INFORMATION: The following information for the witness named above must be completed prior to filing with the Board of Elections in order for this petition sheet to be valid.

Town or City: _____ County: Erie

2) NOTARY PUBLIC or COMMISSIONER OF DEEDS

On the dates above indicated before me personally came each of the voters whose signatures appear on this petition sheet containing _____ (fill in number) signatures, who signed same in my presence and who, being by me duly sworn, each for himself, said that the foregoing statement made and subscribed by him, was true.

Dated 7/11, 2011

[Signature]
Signature and Official Title of Officer Administering Oath

Name _____ (print name)
Commissioner of Deeds, in and for the
City of Buffalo, Erie County, State of New York
My commission expires December 31, 20__

Name Alice M. Wangelin (print name)
Notary Public, State of New York
Reg. #
Qualified in Erie County
My commission expires

ALICE M. WANGELIN
NOTARY PUBLIC, STATE OF NEW YORK
REG. NO. 5012480
CERTIFIED IN ERIE COUNTY
COM. EXPIRES JUNE 15, 2015

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

WILLIAM E. MONTGOMERY

a Justice of the Colden Town Court,
Erie County

ANSWER
TO FORMAL COMPLAINT



Justice William E. Montgomery, being duly sworn, alleges the following as and for an Answer to the Formal Written Complaint dated March 4, 2014:

1. Admits the allegations contained in Paragraphs 1, 4, 6, 7, 8, 10, 11, 14, 15, 20, 21, 22, 24, 26.
2. Lacks information sufficient to form a belief as to the veracity of statements contained in Paragraphs 2, 3, 13.
3. Admits Paragraph 5, but specifically denies that part of Paragraph 5 alleging "he learned prior to its filing that the petition had been falsely notarized by a person who had not witnessed the signatures." Respondent further denies that part of Paragraph 5 alleging that Respondent "neither refused the nomination nor withdrew his candidacy on the Independence Party line."
4. Respondent admits Paragraph 9, but denies that Respondent knew at that time that Respondent could not act as a notary public at or about the time that Respondent obtained signatures on the petition.
5. Respondent admits Paragraph 12, but specifically denies that part of Paragraph 12 alleging "Prior to the filing of the petition, Respondent learned that it had been notarized by Colden Town Clerk, Alice M. Wangelin."

6. Respondent admits Paragraph 16, but lacks information sufficient to form a belief as to the veracity of statement "On or about August 8, 2011, Commissioner Mohr found the petition to be 'presumptively valid' with respect to Respondent." To the extent that the allegation implies Respondent was aware of his designation on August 8, 2011, Respondent denies that Respondent had any knowledge of the decision by Commissioner Mohr.
7. Respondent admits Paragraph 17 as it applies to the period of time after August 2, 2011, but denies the allegation as it applies to the period of time prior to August 2, 2011.
8. Respondent admits Paragraph 23, but denies the allegation that Respondent was professionally acquainted with Ms. Weise. Respondent further denies that Respondent was socially acquainted with Ms. Weise. Respondent admits that Respondent knew Ms. Weise's name, Ms. Weise has lived in the Town of Colden for many years, and Respondent presided over charges filed against Ms. Weise in the past.
9. Denies all allegations contained in the Formal Written Complaint not explicitly addressed herein as if those allegations were specifically denied.

Dated: April 16, 2014
Williamsville, New York

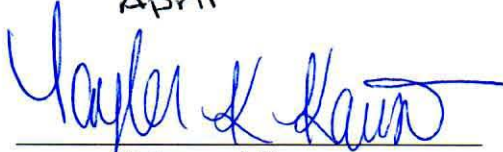

WILLIAM E. MONTGOMERY

VERIFICATION

Respondent, William E. Montgomery, being duly sworn, states that I have read the foregoing Answer subscribed by me and know the contents thereof, and the same is true of my own knowledge, except as to the matters therein stated to be alleged upon information and belief, and as to those matters I believe it to be true.


WILLIAM E. MONTGOMERY

Sworn to before me this 16th
Day of ~~March~~, 2014
April



Notary public

TAYLOR K. KAUN
Notary Public, State of New York
No. 01KA6272469
Qualified in Erie County
My Commission Expires December 3, 2016



TAHERI & TODORO, PC
Brian J. Hutchison, Esq.
Attorney for Respondent
388 Evans Street
Williamsville, NY 14221
(716) 633-0374

EXHIBIT 3

TOWN OF COLDEN

JUL 03 2014

TOWN CLERKS OFFICE

Hon. William Montgomery
9110 Center St.
Holland, NY 14080

June 5, 2014

RECEIVED
JUL 02 2014
TOWN OF COLDEN
SUPERVISOR'S OFFICE

James Depasquale, Colden Town Supervisor
8812 New York 240
Colden, NY 14033

Dear Supervisor Depasquale and Colden Town Board Members:

It is with deep regret that I must submit this letter of resignation after serving as your Town Justice for over 30 years. I have elected to resign effective August 31, 2014. However, due to personal reasons I will not be seated on the bench as of August 1, 2014.

I have greatly enjoyed my time as Town Court Justice. I would like to thank you and the entire community for allowing me the honor of serving for so many years in such a wonderful community.

Respectfully,


HON. WILLIAM MONTGOMERY

cc: Hon. Paula L. Feroletto