

STATE OF NEW YORK  
COMMISSION ON JUDICIAL CONDUCT

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

**WAYNE R. PEBLER,**

a Justice of the Roxbury Town Court,  
Delaware County.

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**NOTICE OF FORMAL  
WRITTEN COMPLAINT**

NOTICE is hereby given to Respondent, Wayne R. Pebler, a Justice of the Roxbury Town Court, Delaware 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: March 27, 2020  
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: Kristin Laviolette Pratt, Esq.  
Young/Sommer LLC  
Attorney for Respondent  
Executive Woods, Five Palisades Drive  
Albany, New York 12205

STATE OF NEW YORK  
COMMISSION ON JUDICIAL CONDUCT

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

**FORMAL  
WRITTEN COMPLAINT**

**WAYNE R. PEBLER,**

a Justice of the Roxbury Town Court,  
Delaware County.

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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 Wayne R. Pebler (“Respondent”), a Justice of the Roxbury Town Court, Delaware County.

3. The factual allegations set forth in Charge I 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 Roxbury Town Court, Delaware County, since January 2, 2002. His current term expires on December 31, 2021. Respondent is not an attorney.

## **CHARGE I**

5. On or about June 13, 2018, August 1, 2018, and/or August 15, 2018, Respondent (A) engaged in improper *ex parte* communications and publicly commented about charges pending against the defendant in *People v Chad M. Ostrander* in the Roxbury Town Court and in the Delhi Town Court; and (B) made comments that created an appearance that Respondent was biased against defendant Ostrander.

6. Respondent engaged in the foregoing improper *ex parte* communications about the *Ostrander* cases notwithstanding that on or about June 29, 2009, the Commission sent Respondent a Letter of Dismissal and Caution for, *inter alia*, engaging in improper *ex parte* communications with the parties and a non-party about a pending small claims matter.

### **Specifications to Charge I**

7. On or about June 8, 2018, Chad M. Ostrander was charged in the Roxbury Town Court with Reckless Endangerment in the first degree, a felony; Fleeing an Officer in a Motor Vehicle in the third degree, a misdemeanor; Reckless Driving, a misdemeanor; Aggravated Unlicensed Operation in the third degree, a misdemeanor; and 12 traffic infractions.

8. On or about June 13, 2018, Mr. Ostrander was charged in the Delhi Town Court with Promoting Prison Contraband in the first degree, a felony; Criminal Possession of a Controlled Substance in the fifth degree, a felony; and Criminal Sale of a Controlled Substance in the fourth degree, a felony.

9. On or about June 13, 2018, at the Roxbury Town Court, while Mr. Ostrander, defense counsel and the prosecutor were not present, Respondent told a man in the courtroom that Mr. Ostrander was a “convict” with two prior felony convictions. He then described in detail the circumstances that led to the charges against Mr. Ostrander in the Roxbury Town Court, including that Mr. Ostrander had allegedly, without a driver’s license, sped past a flagman and “tried to run [a] cop over doing 92 miles an hour,” which Respondent referred to as “asinine.” A transcript of proceedings held on June 13, 2018, is annexed as Exhibit A.

10. On or about June 13, 2018, at the Roxbury Town Court, while Mr. Ostrander, defense counsel and the prosecutor were not present, Respondent initiated a conversation about Mr. Ostrander with another defendant and the defendant’s mother. Respondent told them that Mr. Ostrander had “16 tickets before this court” and that “[h]e’s going to federal pen eventually ... over this, whatever he did.” Respondent also said that he told Mr. Ostrander he was not entitled to assigned counsel because child support could not be considered as “part of [his] poverty level,” while complaining that Mr. Ostrander had children whom he could not afford to support.

11. On or about August 1, 2018, at the Roxbury Town Court, while Mr. Ostrander, defense counsel and the prosecutor were not present, Respondent told a woman in the courtroom details about a plea agreement that had been reached in Mr. Ostrander’s pending case in Delhi Town Court. Respondent said Mr. Ostrander was “dealing drugs and they don’t seem to care,” and said “I’m sorry. If this is what’s happening, I mean, why would he have it up his back end if he’s not dealing?”

12. On or about August 1, 2018, and on or about August 15, 2018, at the Roxbury Town Court, while Mr. Ostrander and his attorney were not present, Respondent made comments to the prosecutor and/or his court clerk, implying that he believed Mr. Ostrander to be a drug user and drug dealer, notwithstanding that at the time, Mr. Ostrander had no narcotics-related charges pending in the Roxbury Town Court.

Respondent stated, *inter alia*, that:

- A. Mr. Ostrander had “drugs up his backside and good old mom lost her supplier.”
- B. “We’ve got to get the drugs back to mom.”
- C. “If he’s not using the illicit drugs, then what is he transporting them up his backside for?”
- D. “He’s running around us dealing more drugs.”

Transcripts of proceedings held on August 1, 2018, and August 15, 2018, are annexed as Exhibit B and Exhibit C.

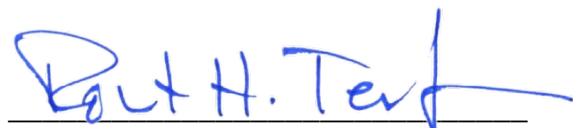
13. By Letter of Dismissal and Caution dated June 29, 2009, a copy of which is annexed as Exhibit D, Respondent was cautioned by the Commission to abide by Section 100.3(B)(6) of the Rules after he engaged in unauthorized *ex parte* communications with each party and a non-party, in connection with *Joseph Giangioffe v Kathleen Paige*, a small claims matter over which he was presiding.

14. 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 perform his judicial duties without bias or prejudice against or in favor of any person and failed to refrain from, by words or conduct, manifesting bias, in violation of Section 100.3(B)(4) of the Rules, initiated, permitted or considered *ex parte* communications, or considered other communications made to the judge outside the presence of the parties or their lawyers concerning a pending or impending proceeding, in violation of Section 100.3(B)(6) of the Rules, and failed to refrain from making any public comment about a pending or impending proceeding in any court within the United States or its territories, in violation of Section 100.3(B)(8) 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 27, 2020  
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

Transcript of Proceedings held on  
June 13, 2018 (8:34:29 AM – 8:39:40 AM)  
before Hon. Wayne R. Pebler, a Justice of  
the Roxbury Town Court, Delaware County

**EXHIBIT A**

*(People v Chad M. Ostrander)*

1                                   **(June 13, 2018 from 8:34:29 AM to 8:39:40 AM)**  
2   Judge Pebler:               Yeah. Well, no, she's a- she's the girlfriend.  
3   Unknown Male:             Well, it was my understanding she told me herself  
4                                   that she was in cuffs and they kicked the door in and  
5                                   brought the dogs.  
6   Judge Pebler:               What's her name?  
7   Unknown Male:             Amy Giacomma. Giac-- Giacco.  
8   Judge Pebler:               No. Not mine, unless she's coming in tonight.  
9   Unknown Male:             I said, "What the hell are they-- Why were you in  
10                                 cuffs?" She said they were going to hold him for  
11                                 obstruction of justice, and I said, "For what?" And  
12                                 she said, "The guy was on the phone when they--  
13                                 when he ran."  
14   Judge Pebler:               Oh. Oh.  
15   Unknown Male:             But I don't know if they arrested him, but I know  
16                                 that they were going to try to bail him out.  
17   Judge Pebler:               Well, they can't. Are you talking about Chad?  
18   Unknown Male:             I don't know. Whatever her boyfriend's name is.  
19   Judge Pebler:               Chad Ostrander. Yeah, well, he can't, because he's  
20                                 got-- He's a-- He's a convict. He's been served  
21                                 federal pen and state pen and he's got two prior class  
22                                 D felony convictions, so after that, according to  
23                                 CPL, Criminal Procedure Law, can't be had bail on  
24                                 your third--  
25   Unknown Male:             --Ostrander, but isn't that Jim's boy?



*(People v Chad M. Ostrander)*

1 Judge Pebler: Yes.  
2 Unknown Male: Didn't he used to ride a motorcycle?  
3 Judge Pebler: Not the kid.  
4 Unknown Male: Yeah, I thought the kid--  
5 Judge Pebler: --No, the kid never-- Not-- At least not to my  
6 knowledge. He hasn't had a license in like eight  
7 years and that's why he got caught. He got  
8 caught-- there was an acc--  
9 Unknown Male: --The floor is bad.  
10 Judge Pebler: --Yeah. He had an accident over here by Maple  
11 Farrels, or-- Not him. There was an accident there  
12 in that dip. Well, he was coming from Windham  
13 without a driver's license and he went to the bank  
14 to cash his check and coming through, he went  
15 through a flagman too fast and then the next person  
16 was the cop, and he tried to run the cop over doing  
17 92 miles an hour. And I went, like, this is just  
18 asinine. I mean, this is--  
19 Unknown Male: --He probably panicked because he'd seen all the  
20 lights.  
21 Judge Pebler: Well, he panicked--  
22 Unknown Male: --If he drove through slow, nobody would have  
23 bothered him.  
24 Judge Pebler: That-- That's 100 percent. That's just what  
25 happens. Yep. That's the district attorney, he's

1 coming in this morning, because we're having a  
2 felony hearing to see if it goes on up to county, so  
3 we'll see what happens and--

4 Unknown Male: There was a farmer who heard a knock on the door.  
5 He opened the door and there's this rabbi there.  
6 The rabbi says, "Can I have a place to stay?" Or  
7 no. I screwed it up. The first one was a lawyer.  
8 He said, "I need a place to stay," and the farmer  
9 said, "I've got a room back by the woodshed  
10 you're welcome to." So, the lawyer goes in. A  
11 little while later, he hears a knock on the door and  
12 a rabbi's there. (Unintelligible). He-- And he  
13 said, "You could sleep in the barn." He said,  
14 "There's a pig here." The rabbi said, "I can't sleep  
15 in the barn." So, he brings him up to the house and  
16 a few minutes later, a knock on the door, and a  
17 Hindu holy man says, "I need a place to stay," and  
18 the farmer takes him down to the barn and he goes,  
19 "Hey, welcome to the barn," and then the holy  
20 man goes, "I can't sleep here because there's a  
21 cow." So, the lawyer (unintelligible) said, "I'll go  
22 sleep there. Don't worry about it." Everything's  
23 calmed down, they hear a knock at the door. The  
24 cow and the pig are there.

25 Judge Pebler: You're right. You're right. You're right.

*(People v Chad M. Ostrander)*

1		You're right. That's true. Yeah. The cow and pig
2		are there. I-- It's funny, it-- I have the same
3		feeling with lawyers. Do you know Dave Rikard?
4	Unknown Male:	Yeah. He's kind of (unintelligible) of mine.
5	Judge Pebler:	Oh, I'm sorry. You know, I can't--
6	Unknown Male:	--No, no. No, no. Speak your mind. Through my
7		grandmother, married four guys. Buried them all.
8	Judge Pebler:	Oh, okay. He represents people, right, on a charge
9		and charged him \$3,000 retainer. Say you had a
10		DWI.
11	Unknown Male:	Yeah.
12	Judge Pebler:	And you're found guilty and he still charged you
13		\$3,000. Now you don't have a pot to piss in and
14		now he comes and sues them in my courtroom for
15		the money that he's owed. There's no-- It doesn't
16		make sense. I don't-- It frustrates the heck out of
17		me, so we'll have to hear that shit this morning,
18		so--
19	Unknown Male:	--Oh, (unintelligible) today.
20	Judge Pebler:	Yep.
21	Unknown Male:	Guarantee it.
22	Judge Pebler:	I'll have the guys in the orange jumpsuits coming
23		in this morning, so--
24	Unknown Male:	--Chad will be in orange, no?
25	Judge Pebler:	I don't know.

*(People v Chad M. Ostrander)*

1 Unknown Male: I'm pretty sure they didn't (unintelligible) over.  
2 Judge Pebler: We'll see what happens.  
3 Unknown Male: Because she thought they were going to bond him  
4 out and I go--  
5 Judge Pebler: --No. If you're talking about Chad Ostrander, no.  
6 He can't be bonded out. He's got to stay there.  
7 Unknown Male: If that's her boyfriend.  
8 Judge Pebler: Yeah, okay.  
9 Unknown Male: Because she said-- I said, "Well, didn't he just  
10 get out of jail?" She says, "Oh, a couple years  
11 ago."  
12 Judge Pebler: Two years ago. Yeah, that's who it was. She was  
13 here. Yeah.  
14 Unknown Female: (Unintelligible)?  
15 Judge Pebler: No, why? She that bad?  
16 Unknown Male: Please.  
17 Unknown Female: Oh, God. Mistakes like you wouldn't believe.  
18 Unknown Male: She can't read, and she can't count. She has a  
19 memory of about this long.  
20 Judge Pebler: Well, that must be her.  
21 Unknown Male: There she is. Well, I've got to go now.  
22 Judge Pebler: Bye.  
23 **(June 13, 2018 from 8:44:22 AM to 8:52:40 AM)**  
24 Judge Pebler: Good morning, counselor.  
25 ADA Smith: Good morning, Judge.

*(People v Chad M. Ostrander)*

1 Judge Pebler: Good morning, Amy.  
2 Ms. Gancio: Good morning.  
3 Judge Pebler: Amy, do you-- You're not in hot water over  
4 anything, are you, because somebody come in this  
5 morning wanting to know if that's what happened?  
6 Ms. Gancio: Is what?  
7 Judge Pebler: You're not in any hot water with anything?  
8 Ms. Gancio: I'm not.  
9 Judge Pebler: No. Okay.  
10 Ms. Gancio: (Unintelligible).  
11 Judge Pebler: No, I'm just--  
12 Ms. Gancio: --No, I'm good.  
13 Judge Pebler: Did the bail bondsman get a hold of you?  
14 Ms. Gancio: Yes, I just heard.  
15 Judge Pebler: Because according to what Shawn said, you know,  
16 CPL said you can't after two felony convictions,  
17 you can't be bailed out, so she still insists that she's  
18 coming to be-- sign the paperwork, the bail  
19 bondsman.  
20 ADA Smith: I think we found out it worked out with-- I talked  
21 to Randy Scharf about this and I thought he was  
22 going to be here this morning (unintelligible)  
23 something worked at here (unintelligible)--  
24 Judge Pebler: I can go home now, huh?  
25 ADA Smith: Well, I think he got some other problems since that

1 one, too, so we'll talk to (unintelligible)--  
2 Judge Pebler: Okay. That's fine. That's-- I just wanted to let  
3 you know, everything is being recorded, so I  
4 can't-- You know, don't say something you're not  
5 supposed to be saying.  
6 ADA Smith: No, no. (Unintelligible).  
7 Judge Pebler: And everything you've said so far is fine. I mean, I  
8 just don't want somebody to start talking about the  
9 case and whoops, defense attorney's not here, so--  
10 And my court clerk is not coming in this morning.  
11 She's out, sick as a dog. She'd come down Friday.  
12 She says it's not the flu. I don't know what else it  
13 can be.  
14 ADA Smith: I talked to her yesterday, she seemed-- on the  
15 phone okay but (unintelligible).  
16 Judge Pebler: Yeah? Did you call her at her home phone?  
17 ADA Smith: Might have been. I (unintelligible)--  
18 Judge Pebler: --No, I don't care. I mean ...  
19 ADA Smith: I think it was (unintelligible).  
20 Judge Pebler: You know, because she said she-- if she gets--  
21 feels better, she'll be, you know, in this courtroom  
22 tonight to help Heather, so we'll see what  
23 happens. What do I got, two computers on?  
24 Holy-- She left hers on. Oh, well.  
25 ADA Smith: How long have you been the judge here?

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1 Judge Pebler: Me?  
2 ADA Smith: Yeah.  
3 Judge Pebler: 17 years.  
4 ADA Smith: I think somebody was just telling me that like that  
5 20 years--  
6 Judge Pebler: --That is going to be my last one, too.  
7 ADA Smith: I didn't realize that you were (unintelligible) before  
8 I was around then.  
9 Judge Pebler: Oh, yeah. I started out when Matt Tully started.  
10 ADA Smith: From Tully Rinckey?  
11 Judge Pebler: Yeah, Tully Rinckey. He was-- he was in-- I  
12 can't remember if he was in Afghanistan or in Iraq  
13 or something like that and I just became a judge  
14 and I had a case with him, I can remember it was  
15 vehicle and traffic, and the only thing he  
16 complained about what was the water he had to  
17 drink in-- over there, the water was-- always had  
18 sand and it was always muddy looking and stuff  
19 like that, right? So, I had bottled water here and he  
20 took a glass of it and he saw these white flakes  
21 floating around inside the jug. "Oh, my God.  
22 Look at this crappy water you gave me." And I'm  
23 going, "Well, it comes from 800 feet down at my  
24 house and it might pick up some type of sediment,  
25 you know, on the way up." So, "Oh, God, this is





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1     ADA Smith:                   (Unintelligible) every time he gets it.  
2     Judge Pebler:               But the only thing is-- the big concern to me was  
3                                   the felony. I mean, to try to run down a flagman  
4                                   was ridiculous and I-- You know, when he was  
5                                   here, I tried to explain to him, I says, "Nothing  
6                                   would have happened to you if you had been going  
7                                   slow. Why were you going so freaking fast?"  
8                                   That's neither here nor there. Hang on, phone. I'm  
9                                   coming. Roxbury Court, Judge Pebler speaking.  
10    Ms. Ostrander:               Judge Pebler, this is Karen Ostrander, Chad's  
11                                   mom.  
12    Judge Pebler:               Yes. How are you doing?  
13    Ms. Ostrander:               Hi, good, thank you. The bail bondsman has just  
14                                   called me.  
15    Judge Pebler:               Yes.  
16    Ms. Ostrander:               And said that there's a possibility that Chad can't  
17                                   be bailed out or bonded out.  
18    Judge Pebler:               That's correct, because he has two past felony  
19                                   convictions and under CPL law, that if he has two  
20                                   or more convictions-- felony convictions, he  
21                                   cannot be placed on bail.  
22    Ms. Ostrander:               Bail or bond?  
23    Judge Pebler:               That's right.  
24    Ms. Ostrander:               Then why did you offer it?  
25    Judge Pebler:               Because the DA, when they-- when we arraigned

1                                   them that night, the DA didn't have the RAP sheet  
2                                   in his hand. I mean, all they made is a bail  
3                                   recommendation and I said, "Okay, I'll go along  
4                                   with the bail recommendation." I don't remem-- I  
5                                   don't know all the laws.  
6   Ms. Ostrander::           So, this is for sure he's not getting-- that he can't  
7                                   be bailed or bonded or do you have  
8                                   (unintelligible)--  
9   Judge Pebler:           --We-- I can't make that decision until the defense  
10                               attorney is here.  
11   Ms. Ostrander:           Oh.  
12   Judge Pebler:           You know? And then we have-- If we're going to  
13                               have the hearing, we're going to have the hearing,  
14                               and then whatever they come up with, we go along  
15                               with.  
16   Ms. Ostrander:           Okay. Well, I obviously need to postpone today  
17                               because (unintelligible) today.  
18   Judge Pebler:           Why not? He's supposed to be coming.  
19   Ms. Ostrander:           He had (unintelligible).  
20   Judge Pebler:           Well, that was the big to-deal. When he was here,  
21                               he was going to hire his own attorney. Well, I have  
22                               to make sure he has representation and he's--  
23   Ms. Ostrander:           --(Unintelligible) that he wouldn't be able to hire  
24                               his own attorney until he's out, because we  
25                               haven't hired anyone for him.

1 Judge Pebler: All right. You don't-- You don't understand, I  
2 have to have an attorney here to represent him. So,  
3 I called an attorney and the attorney is going to be  
4 here for his felony hearing, if we have a felony  
5 hearing. So, we'll see how--

6 Ms. Ostrander: --Well, so there's going to be someone there for  
7 him?

8 Judge Pebler: Absolutely. I can't proceed without-- with--

9 Ms. Ostrander: --(unintelligible) because he hadn't had the  
10 opportunity to hire one, so I didn't think there  
11 would be one there today. I didn't realize that you  
12 had called one.

13 Judge Pebler: But, he can't come to court without an attorney, so  
14 that's what this is all about. All right?

15 Ms. Ostrander: Okay. Okay. So, Judge, one other thing I wanted  
16 to ask about. Can we get (unintelligible)?

17 Judge Pebler: That's something that's got to be brought up with  
18 the defense. I can't make a decision. You're  
19 asking me to make decisions over the phone. I  
20 can't do that. I haven't even heard the case yet.  
21 You have to wait to-- Wait--

22 Ms. Ostrander: --Oh, I didn't think there would be a decision. I  
23 knew that his car was impounded, but--

24 Judge Pebler: --Mrs. Ostrander, you're son's got a felony charge  
25 before me. I mean--

1 Ms. Ostrander: --I understand that, but I just said (unintelligible).  
2 Judge Pebler: I-- Again, I can't do anything until the defense  
3 gets here. I can't make a decision. I don't know. I  
4 don't--  
5 Ms. Ostrander: --(Unintelligible) procedure to get the car back.  
6 That's what I was-- I don't know. That's why I  
7 was asking you. I need to know (unintelligible)--  
8 Judge Pebler: --Whose car is it?  
9 Ms. Ostrander: It's my husband's.  
10 Judge Pebler: Okay. Come on up, Darrell. All right. I've got to  
11 go.  
12 Ms. Ostrander: Okay.  
13 Judge Pebler: All right. Bye.  
14 **(June 13, 2018 from 8:58:02 AM to 9:31:52 AM)**  
15 Judge Pebler: I'm surprised the cops aren't here yet. They're  
16 always here early.  
17 ADA Smith: Randy's not here either.  
18 Judge Pebler: Yeah. Does he-- He's coming from Cooperstown,  
19 though. Isn't he--  
20 ADA Smith: --That's where (unintelligible) is?  
21 Judge Pebler: You know, he lives up there and has his office in  
22 Delhi. I mean, I talked to him yest-- Well, same  
23 time. So ...  
24 ADA Smith: No, he doesn't have an office, he must have his  
25 office in Cooperstown.

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1 Judge Pebler: Let's see. I called him at his 346 Delhi number.  
2 Ms. Gancio: (Unintelligible).  
3 ADA Smith: I've never seen him around down there, but--  
4 Judge Pebler: --Suite 1. Right here. I wrote it down this  
5 morning.  
6 ADA Smith: Oh, okay.  
7 Judge Pebler: 32 Main Street, Suite 1, Delhi, New York.  
8 Ms. Gancio: (Unintelligible) done on the (unintelligible).  
9 ADA Smith: Oh, okay. Then he's not (unintelligible)?  
10 Judge Pebler: So, this is important, but how come Chad didn't  
11 call an attorney for when you-- you were here.  
12 Ms. Gancio: Yeah.  
13 Judge Pebler: (Unintelligible) Randy Scharf. How come he  
14 didn't contact him?  
15 Ms. Gancio: I have no idea. I didn't talk to him since he's been  
16 in. I know I can't afford to pay for one for him and  
17 now, he's not going to have a job, so he wouldn't  
18 be able to pay for one anyway.  
19 Judge Pebler: But you know some-- The thing is the purpose of  
20 assigned counsel is for people who are destitute,  
21 people who live beyond their means, you know,  
22 I'm not saying, you know, child support is not  
23 considered part of a loss on getting a assigned  
24 attorney. House payment doesn't-- You  
25 know, because you can buy a home for thousands

1 of dollars, you know, \$100,000, you're way beyond  
2 your means. This is for destitute people. I  
3 mean, he works, you're living with him, so your  
4 income would be included if he did a financial  
5 affidavit. The minute somebody tells me they're  
6 working full time, I don't assign attorneys for  
7 them.

8 Ms. Gancio: Right.

9 Judge Pebler: So, even Randy said the same-- Mr. Scharf said  
10 the same thing. "You don't understand." He--  
11 And I says, "Well, I don't want him to come to  
12 court without representation."

13 Ms. Gancio: Right.

14 Judge Pebler: And he goes-- He goes-- "Assign me  
15 temporarily," which I'm assigning him, so we'll  
16 see how-- You know what I mean?

17 Ms. Gancio: Yeah.

18 ADA Smith: Right.

19 Judge Pebler: The county will come after Chad and put a lien  
20 against him some place at the county level. And,  
21 I mean, it does happen a lot. I mean, people that  
22 don't pay the court, we wait our-- That's Randy,  
23 right there. We wait our normal 90 days and after  
24 that we say the district attorney's office file papers,  
25 see if the judgment and John files the paperwork

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1 down there. The downside I get is that we don't  
2 get nothing from the DA's office to put in the  
3 folder that he has done.  
4 ADA Smith: Oh, really? Okay. I didn't know that.  
5 Judge Pebler: And that's the part--  
6 ADA Smith: We could probably give you a copy of the  
7 judgment (unintelligible).  
8 Judge Pebler: I would imagine so, but I mean, that's--  
9 ADA Smith: --(Unintelligible).  
10 Judge Pebler: --People come in-- Well, I'm going to say it hasn't  
11 happened yet, but after five years, they want it  
12 to be settled. Good morning, sir. How have you  
13 been doing?  
14 Mr. Scharf: Good.  
15 Judge Pebler: Your client is not here yet.  
16 Mr. Scharf: Okay.  
17 Ms. Gancio: Hi.  
18 Mr. Scharf: Hi.  
19 Ms. Gancio: I'm his fiancé.  
20 Mr. Scharf: I'm his lawyer.  
21 Judge Pebler: Oh, I've got your signed paperwork up here at the  
22 desk. Do you want the key to this conference  
23 room?  
24 Mr. Scharf: Sure.  
25 Judge Pebler: I trust you. Make sure you don't take it home--

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1		back to your office-- the key. Herbert does that all
2		the time. It's one of these two keys.
3	Mr. Scharf:	All right. Thank you.
4	Judge Pebler:	Three keys, correct?
5	Mr. Scharf:	Mm-hmm.
6	Judge Pebler:	So, do you need any paperwork from me? You
7		probably have shit.
8	Mr. Scharf:	Huh?
9	Judge Pebler:	You probably have nothing to-- Right?
10	Mr. Scharf:	Right.
11	Judge Pebler:	Do you want the folder?
12	Mr. Scharf:	Yeah, it's (unintelligible).
13	Judge Pebler:	I trust you with a folder.
14	Mr. Scharf:	It's pouring rain in Cooperstown and I left my boat
15		cover off.
16	Judge Pebler:	Oh. There's the folder.
17	Mr. Scharf:	Okay.
18	Judge Pebler:	Try to keep it in order.
19	Mr. Scharf:	Okay.
20	Judge Pebler:	And assigned counsel paperwork is in there for
21		you, too.
22	Mr. Scharf:	(Unintelligible).
23	Judge Pebler:	Yep. If you need copies, just holler. All right.
24	Ms. Gancio:	Someone said I was in boiling water?
25	Judge Pebler:	Pardon me?



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1 Ms. Gancio: Someone said I was in boiling water?  
2 Judge Pebler: No. It's-- Somebody came in here this morning,  
3 and I can't say who these people were, saying that  
4 they-- the person was arrested and-- for harboring  
5 a fugitive.  
6 Ms. Gancio: No.  
7 Judge Pebler: So, I went like, "I haven't the foggiest--"  
8 Ms. Gancio: --(Unintelligible).  
9 Judge Pebler: I don't know. I mean, I'm just saying. I said,  
10 "There's nothing filed in this court."  
11 Ms. Gancio: Yeah. No, I wasn't.  
12 Judge Pebler: So, I--  
13 Ms. Gancio: --Came home from work and met the cops right at  
14 Sunoco.  
15 Judge Pebler: You know, so I have no idea. I go, "There's no--"  
16 like I'm saying to you. There's no paperwork been  
17 filed--  
18 Ms. Gancio: I wasn't in my apartment, too.  
19 Judge Pebler: There's Rikard now. All right. This takes care of  
20 Mr. Rikard.  
21 Ms. Gancio: All the rumors in this town.  
22 Judge Pebler: We're a small town.  
23 Ms. Gancio: Yeah.  
24 Judge Pebler: It was just like Ms. Ostrander here.  
25 Ms. Gancio: Yeah, I know. I got that call.

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1	Judge Pebler:	And how-- My question is how did Chad get his
2		father's truck?
3	Ms. Gancio:	Because he lent it to me.
4	Judge Pebler:	They loaned it to you?
5	Ms. Gancio:	Yep.
6	Judge Pebler:	And what were you driving that day?
7	Ms. Gancio:	I drove mine.
8	Judge Pebler:	You drove the red car?
9	Ms. Gancio:	Right. If I don't-- If I-- If I drive to work, I take
10		that up at Hanna or here, but if I go to Walding to
11		see my kids, I take that car. And I got called in that
12		day.
13	Judge Pebler:	No, but I'm just trying to say, how long have you
14		had the car?
15	Ms. Gancio:	The black car?
16	Judge Pebler:	The one that he had-- Chad was driving?
17	Ms. Gancio:	I've had it for quite a while. A few months.
18	Judge Pebler:	And I-- Okay.
19	Ms. Gancio:	(Unintelligible) to me.
20	Judge Pebler:	Why?
21	Ms. Gancio:	Because the insurance is a lot cheaper.
22	Judge Pebler:	But if you have an accident, he's liable.
23	Ms. Gancio:	Right.
24	Judge Pebler:	And I think this is what could be happening now
25		with this truck, it's being held-- I assume it's being

1 held-- I--  
2 Ms. Gancio: --Do you know (unintelligible).  
3 Judge Pebler: I have-- No, I'm not-- You know, I don't know  
4 anything until they-- the two attorneys come back  
5 here, they talk to me and then I--  
6 Ms. Gancio: --Right.  
7 Judge Pebler: I'm not supposed to have any prior knowledge of  
8 anything.  
9 Ms. Gancio: Right.  
10 Judge Pebler: So--  
11 Ms. Gancio: --I understand.  
12 Judge Pebler: And believe me. I've been through where-- cases--  
13 a case where I spoke out of hand and did things--  
14 did a thing out of hand and I was brought up on  
15 charges up in Albany and they were looking at me  
16 like, "Are you that stupid?" And I'm saying, "It  
17 was just a slip that happened." What it was, was a  
18 small claims case, the defendant and the plaintiff  
19 were landlord and tenant. She left the home. She  
20 was evicted, but she left all this crap behind. He  
21 took it to the dump. The junk cars he junked,  
22 except for one which he took back to his body  
23 shop, fixed it all up. It was an old car and tried to  
24 sell it. Well, he didn't have a certificate of title to  
25 it, so they made an agreement right in front of me

1 on the tape recorder that she was going to have the  
2 car removed within 10 business days, that's two  
3 weeks.  
4 Ms. Gancio: Mm-hmm.  
5 Judge Pebler: And fine, they walked out of here. I didn't have to  
6 make a decision. Well, three weeks later, he comes  
7 in and he says, "Your Honor, she failed to abide by  
8 the agreement with you and I still got the car."  
9 And I wrote a note, handwritten note, on my  
10 stationary that the agreement that Mrs. Such-and-  
11 such had with Mr. Such-and-such, is now null and  
12 void and I signed it. Boom. Now, she brought me  
13 up on charges that I gave them-- gave him a bill of  
14 sale. (Unintelligible) gave a bill of sale, find out  
15 after I was brought up on charges that his niece  
16 was working in the DMV office and she used that  
17 as a bill of sale to get him the certificate of title.  
18 Ms. Gancio: That's not your fault though.  
19 Judge Pebler: But I'm-- Yeah-- When I went back up to  
20 Albany, I says, "Look, this is not a bill of sale."  
21 Ms. Gancio: Yeah.  
22 Judge Pebler: "Judge, you have no right to even make a letter like  
23 that."  
24 Ms. Gancio: That's wrong.  
25 Judge Pebler: (Unintelligible).

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1	Ms. Gancio:	They went behind your back.
2	Judge Pebler:	But again, that was a learning experience. So, now
3		I've always come back and said, "No, I don't do
4		any of this and--"
5	Ms. Gancio:	--Wow, they have a truck for him, huh?
6	Judge Pebler:	Well, he had a-- It's a-- It's a cage in the back.
7	Ms. Gancio:	Oh, my God.
8	Judge Pebler:	It makes it a lot more comfortable. And it's funny,
9		the bail bondsman--
10	Ms. Gancio:	--You know, we haven't been able to contact her
11		and now she's on it.
12	Judge Pebler:	Can I ask a stupid question? Were you able to
13		call her at all?
14	Ms. Gancio:	Yes.
15	Judge Pebler:	And what happened when you called her?
16	Ms. Gancio:	She kept saying she couldn't make it.
17	Judge Pebler:	She couldn't--
18	Ms. Gancio:	--She couldn't make it to see you. It had to be on a
19		court date.
20	Judge Pebler:	I know, but she-- When she called me and left a
21		phone number, right?
22	Ms. Gancio:	Right.
23	Judge Pebler:	I'm agreeable. I'll come to court at 1:00 in the
24		afternoon. I have no problem.
25	Ms. Gancio:	She said you wouldn't.

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1 Judge Pebler: No, every time I called her, she's not taking-- Her  
2 message was, "I'm not taking phone calls at this  
3 time. Please call back later."  
4 Ms. Gancio: Yeah, that's not what she told us. She told us you  
5 wouldn't come in.  
6 Judge Pebler: I made four-- five phone calls. Finally, this  
7 morning I called her and that's how it happened.  
8 So, good morning Chad. Good morning, deputies.  
9 Deputy 1: (Unintelligible)?  
10 Judge Pebler: Any place.  
11 Deputy 1: Sorry we're late.  
12 Judge Pebler: Well, your-- No apologies. The gent-- the  
13 attorneys were just sitting there doing their thing.  
14 So, Chad, do you remember Mr. Scharf?  
15 Mr. Ostrander: Yes.  
16 Judge Pebler: Do you want to go next door, privately?  
17 Ms. Gancio: No, I'm good.  
18 Judge Pebler: Put it on my desk, Sean, please. I'll remember it.  
19 Thank you. All right. These two I've got to hang  
20 on until later. All right. That can go there. He's  
21 got that.  
22 Deputy 1: So, how was your vacation?  
23 Judge Pebler: Cold. It was-- You know, normally we can swim  
24 every month. Sometimes it gets in the 80s, 85  
25 degrees. We got down there on the 31<sup>st</sup>-- 30<sup>th</sup> of

1 December, on the 4<sup>th</sup> through the 8<sup>th</sup>, they had six  
2 inches of snow and we just sat off our balcony and  
3 looking at the snow and we're saying, "This is  
4 cool." Well, guess what, they don't move down  
5 there. For two days, we didn't see a car. Two  
6 days. Yeah. Everything was down and then all of  
7 a sudden, we saw a couple four-by-fours going by  
8 and that was the only traffic, there was two of  
9 them. Then on the fourth day, the snow had melted  
10 and the ice had melted off the maj-- you know, the  
11 road in front of the house and traffic started to  
12 move and then it looked like it was nothing. But  
13 anyway, it got warm and we went swimming once  
14 in Jan-- second week in Jan-- third week in  
15 January and then it got cold. My son came out for  
16 Valentine's Day and he swam and he's a little  
17 chilly. I mean, the water is 68 degrees, that's  
18 survivable. And it was just wintertime jackets to  
19 walk on the beach. You know, that was the killer  
20 part. So, and it was all the way to the end of  
21 March. It was only the last week of March that it  
22 really got nice out, but then we were home by the  
23 1<sup>st</sup> for Easter. So, then we came home and the  
24 whole month of April was nothing but snow.  
25 Deputy 1: Yeah. I remember a couple places that got hit with

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1 a real bad storm (unintelligible).  
2 Judge Pebler: Yep. But I-- Hey, I didn't have to put up with the  
3 stuff going this way and then I can't see out my 14-  
4 foot window.  
5 Deputy 1: Yeah.  
6 Judge Pebler: You know? So, you know, I'm done staying up  
7 here in the wintertime. Especially trying to get the  
8 tractors running to plow the roads and stuff like  
9 that, so ...  
10 Deputy 1: Yeah, now you'll get your two inches of snow  
11 down there (unintelligible).  
12 Judge Pebler: Oh, yeah. I mean, the biggest thing they have is ice  
13 down there, ice storms, and the minute the bridges  
14 get a sign of any ice, bam, they close the bridges  
15 down and now we're stuck on the island, we can't  
16 get off. So, we'll see what happens. Deputy, you  
17 look very familiar.  
18 Deputy 2: I get that a lot.  
19 Judge Pebler: Do you live locally?  
20 Deputy 2: I live in Franklin.  
21 Judge Pebler: Oh, no. Well, you must have a twin running  
22 around--  
23 Deputy 2: --You know, I've heard that.  
24 Judge Pebler: --Margaretville. Because I was going to say, are  
25 you a Cantwell? Well, Chad, how come you didn't



1 try to get your attorney?  
2 Mr. Ostrander: I wouldn't-- I couldn't use the phone at all. I was  
3 in classification (unintelligible).  
4 Judge Pebler: Okay. All right. I was just wondering why. That's  
5 all. Did you get your assignment paper?  
6 Mr. Scharf: I did not yet.  
7 Judge Pebler: Okay.  
8 Mr. Scharf: I'm handing up a statement for a pre-plea  
9 form. Chad, can you stand up there, please?  
10 Judge Pebler: Yeah, come all the way over. Come on all the way  
11 up, so you're part of this too, so-- Okay. For the  
12 record, we have Randel Scharf representing  
13 Chad Ostrander here on a class B felony. They are  
14 going to waive-- Am I correct you're going to  
15 waive a felony hearing?  
16 ADA Smith: Well, Judge, we're actually going to-- the top  
17 charge and really the only felony charge--  
18 Judge Pebler: --Right.  
19 ADA Smith: --and is based upon depraved indifference, reckless  
20 endangerment in the first degree and after  
21 reviewing it and talking to the officers, I think it  
22 was overcharged, to be honest with you. It's not  
23 really depraved indifference as far the statute goes,  
24 so on-- we're going to make a motion to reduce it  
25 from de-- from reckless endangerment in the first

1 to reckless endangerment in the second degree  
2 which is a misdemeanor.  
3 Judge Pebler: Yeah. What class misdemeanor? Do you know?  
4 ADA Smith: Class A.  
5 Judge Pebler: Class A misdemeanor. Okay. Do you have any  
6 objection to that? I didn't think you would.  
7 Mr. Scharf: No. So, bail can be set.  
8 Judge Pebler: Yep. So, what's bail recommendation?  
9 ADA Smith: Judge, I think the-- Well, I mean what--  
10 Judge Pebler: --It's \$5,000 now with a \$10,000 surety bond and  
11 the bail bondsman is supposed to be here tonight.  
12 ADA Smith: Judge, it's-- before they do that though, my  
13 understanding is he's getting rearraigned in Delhi  
14 down there so if you-- Before you get bailed out,  
15 they're going to put--  
16 Judge Pebler: --What's happening in Delhi?  
17 Mr. Ostrander: They told me that if I can get out though to just call  
18 him, he doesn't think that it matters.  
19 ADA Smith: I just (unintelligible). It's up to you guys, but  
20 it's--  
21 Mr. Ostrander: --Well, Mr. Bummard said he didn't care if I got  
22 out--  
23 ADA Smith: --Okay.  
24 Mr. Ostrander: --to give him a call, because then I can start  
25 working.

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1 Mr. Scharf: Maybe he could lower the bail a little bit?  
2 ADA Smith: \$2,500, \$5,000 or something. (Unintelligible).  
3 Judge Pebler: Can I have my-- Push my folder towards me.  
4 That's your copy.  
5 Mr. Ostrander: (Unintelligible) in Delhi, then we can  
6 (unintelligible).  
7 ADA Smith: (Unintelligible). Then I could send a letter, asking  
8 to be released. (unintelligible).  
9 Judge Pebler: Right.  
10 Mr. Scharf: That's how ...  
11 Judge Pebler: Two seconds. Class A misdemeanor. All right.  
12 That I can go along with. That's no problem.  
13 From there, you're going to need a new securing  
14 order for the bail. From there, let's see, what do  
15 we got here? All right, so we're going to lower  
16 the bail to \$2,500. That means you're going to  
17 have to bail bonds-- You have to pay the bail  
18 bondsman \$250.  
19 Mr. Ostrander: That's fine.  
20 Judge Pebler: I think that's 10 percent. No, I take that back.  
21 \$500. Because a cert-- You have the bondsman.  
22 A bond is going to be \$5,000, is double the cash--  
23 Mr. Ostrander: Yeah, it's 10 percent of whatever the--  
24 Judge Pebler: --Yeah, so it's five-- You have to come up with  
25 \$500 cash to the bondsman to get bailed out. All

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1 right? Can I get that phone quick--  
2 Unknown Male: --Yeah, go ahead.  
3 Judge Pebler: --because it could be somebody. Roxbury Court,  
4 Judge Pebler speaking.  
5 Unknown Female: (Unintelligible).  
6 Judge Pebler: You have to talk to the district attorney's office to  
7 get that pled-- any charges pled down.  
8 Unknown Female: (Unintelligible).  
9 Judge Pebler: Look in the phonebook under the Delaware County  
10 government-- offices. I don't have the phone  
11 number off hand. All right. All right, bye.  
12 ADA Smith: I didn't know if you (unintelligible).  
13 Judge Pebler: No, I was, but I'm going to let them do their job.  
14 I'm going to turn around and say, yeah, I've got  
15 to run. I don't like doing that. So, anyway. All  
16 right. So, is there--  
17 ADA Smith: --Can I just talk Randy real quick--  
18 Judge Pebler: Sure. You can have a seat, Chad. So, you need a  
19 new securing order. When are they going to get  
20 this done? So, all we're going to do is just going to  
21 change reckless endangerment first to reckless  
22 endangerment second?  
23 ADA Smith: Correct.  
24 Judge Pebler: Class A misdemeanor. The bail is going to be  
25 lowered to \$2,500, \$5,000 surety bond. Okay.

1     ADA Smith:             I'm just going to put on the record they're saying  
2                             that so-- Chad, that after this, he's got another  
3                             felony charge and he's getting ready to be charged  
4                             with in Delhi Town Court. So--  
5     Judge Pebler:         --What was that for?  
6     ADA Smith:             If he gets bail here, then he's still going to be in on  
7                             that one.  
8     Mr. Scharf:            It's a contraband charge, I believe. But, the two  
9                             things that we're talking about, one, I'm hopeful  
10                            that the judge assigns my office in Delhi--  
11    Judge Pebler:         --Delhi. All right, but I'm just dealing with what's  
12                            on my plate. I don't want-- I don't want to hear  
13                            Delhi because, you know, it muddies up the water  
14                            for me.  
15    Mr. Scharf:            Gotcha.  
16    Judge Pebler:         All right? So, at this point, we're doing a pre-plea  
17                            investigation, signed by all parties. I've got to sign  
18                            it, so I'm going along with it. So, if they bail you  
19                            the-- The bail bondsman is supposed to be coming  
20                            tonight. Does he have to be here for the--  
21    ADA Smith:             --Just to help him out and so if he bails out of here,  
22                            he's not leaving the jail, because they're going to  
23                            hold him in on there, so my recommendation would  
24                            be to wait until he gets arraigned in Delhi Court  
25                            and then if he does a bail, he could do one bail or

1 we could work something out between Mr. Sharf  
2 and myself if we could work out a bail that kind of  
3 does the global thing.

4 Mr. Ostrander: When are they going to do the arraignment on that?

5 ADA Smith: I'm not pos-- He hasn't even been officially  
6 charged yet, but I would assume within the next  
7 day or two, you'll get charged and then you'll get  
8 arraigned, you know, shortly thereafter.

9 Mr. Scharf: So, if you spend \$500 on the bond, you're going to  
10 be sitting in there anyhow.

11 ADA Smith: And your time won't be counting towards this.  
12 That's all I'm saying. You know what I mean? If  
13 you're bailed out, then the time you're in won't be  
14 counted.

15 Mr. Scharf: It's a more intelligent and responsible thing to do,  
16 to wait until you get arraigned on the other charge  
17 and then let us-- I'll tell (unintelligible) and we'll  
18 get you started out and we'll make it so that you're  
19 not paying the guy twice or wasting your money.

20 Mr. Ostrander: So then, just wait a couple days then?

21 ADA Smith: Yeah. Because I don't even have paperwork, so  
22 I'm sure Mr. Scharf doesn't have paperwork on  
23 your new stuff, because we-- it just happened.  
24 You know what I mean?

25 Mr. Scharf: I don't even have paperwork on this.

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1 Judge Pebler: Yeah. I asked him that. If you want copies, I can  
2 make you copies or fax them--  
3 Mr. Scharf: --Can you fax?  
4 Judge Pebler: --I'll fax that to your office.  
5 Mr. Scharf: Yeah.  
6 Judge Pebler: All right. So, I need your fax number before you  
7 go anywhere.  
8 Mr. Scharf: It's [REDACTED]--  
9 Judge Pebler: --[REDACTED].  
10 Mr. Scharf: [REDACTED].  
11 Judge Pebler: [REDACTED].  
12 Mr. Scharf: [REDACTED].  
13 Judge Pebler: [REDACTED]. And that's [REDACTED], right?  
14 Mr. Scharf: Yes.  
15 Judge Pebler: Okay. I'll-- As long-- It'll take me forever to get  
16 this done, so--  
17 Mr. Scharf: --It's no big deal.  
18 Judge Pebler: --I'll fax it all down to you. I wish my court clerk  
19 was here. All right. So, we're all in agreement,  
20 we're going to wait on the bail and I'll call the bail  
21 bondsman. All right? Since it-- Both parties  
22 here-- Your defense attorney's here, but she's  
23 supposed to be coming tonight. Why waste her  
24 time over this? So I can tell her that, "Forget it,"  
25 until she hears from somebody.

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1 Ms. Gancio: Yeah.  
2 Mr. Ostrander: Yeah, we're going to--  
3 Ms. Gancio: --We're going to-- We're going to talk to her.  
4 Judge Pebler: Well, that's all- that's all at this time.  
5 ADA Smith: (Unintelligible) I guess, so--  
6 Judge Pebler: --Well, they should be. If they're going to file  
7 charges, they should be filing charges this morning  
8 somehow. I mean--  
9 ADA Smith: --They didn't call me at 8:00, 7:30 this morning  
10 (unintelligible).  
11 Judge Pebler: I've got to get this again. Roxbury Court, Judge  
12 Pebler speaking.  
13 Unknown Male: I just want to let you know, (unintelligible) by mail.  
14 Judge Pebler: That would be-- That is your ADA day to plead--  
15 talk to the district attorney.  
16 Unknown Male: (Unintelligible) by mail.  
17 Judge Pebler: Okay.  
18 Unknown Male: (Unintelligible).  
19 Judge Pebler: Okay. Do it by mail. They'll take care of you.  
20 Unknown Male: That's it?  
21 Judge Pebler: Yep. Bye. Sorry, gentlemen. All right. So, you  
22 don't need anything else from me, do you?  
23 ADA Smith: No.  
24 Mr. Scharf: Nope.  
25 Judge Pebler: I gave you a securing order that put what the new



1 bail is going to be. You got your thing, I got this.  
2 I've got to bring this down to probation and go on  
3 from there.  
4 Mr. Scharf: And we're-- What's our return date, Judge?  
5 Judge Pebler: You want to come back on the 27<sup>th</sup> of June? Do  
6 you think that's available or do you want to wait  
7 until the 11<sup>th</sup> of July?  
8 Mr. Scharf: 11<sup>th</sup> of July.  
9 Judge Pebler: 11<sup>th</sup> of July.  
10 ADA Smith: I don't-- Realistically, do you think he'll do a pre-  
11 plea by then or no--  
12 Judge Pebler: --Oh, that's true. They won't get that. It takes 60  
13 days, if not more.  
14 ADA Smith: I mean, we can come back, but I'd put it out  
15 further--  
16 Judge Pebler: --Why waste his time and waste my taxpayer  
17 money? I'm just--  
18 Mr. Scharf: --Yeah, so I just--  
19 Judge Pebler: --You know? And then at least he'll find out by  
20 next week by what's going on with the Delhi case.  
21 All right. So, we're doing-- this is July 11<sup>th</sup>. This  
22 is Aug-- Jesus, it's probably going to be  
23 September before we get this resolved for--  
24 ADA Smith: --It's okay with me, Judge. The charges in Delhi  
25 are more serious. I think whatever gets worked out

1 there can--

2 Judge Pebler: --Randy, is that all right with you? September 5<sup>th</sup>?

3 Mr. Scharf: Yeah, absolutely.

4 Judge Pebler: Any objections to me calling you Randy?

5 Mr. Scharf: No.

6 Judge Pebler: I just want to make sure we're polite here. I don't

7 want to get slapped, so, right. September 5<sup>th</sup>.

8 What time do you want to do it, 9:30?

9 Mr. Scharf: Sure.

10 Judge Pebler: Because we'll be busy probably at that time, AM.

11 Okay. So, now it's time to do the securing order

12 and get this all-- fill in the paperwork and then I'll

13 fax this all down to you, okay? To your office?

14 Mr. Scharf: Okay.

15 Judge Pebler: All right. And I'll-- There'll be-- Your machine

16 is going to run like mad, because there's like 30

17 pages--

18 Mr. Scharf: --It does that.

19 Judge Pebler: All right. So, I can do this. Oh, I've got a

20 question. What happ-- The mother called-- His

21 mother called and wants to know how does she get

22 the car-- truck back?

23 Mr. Ostrander: And my car is on the impound. They said-- They

24 said that it had to be cleared by the DA or

25 something.

*(People v Chad M. Ostrander)*

1	Judge Pebler:	All right. We'll get him back up here. Shard [sic]?
2	ADA Smith:	Yes?
3	Judge Pebler:	The truck is impounded. How does the parents get
4		the truck back?
5	ADA Smith:	I just gave her the number they're going to call
6		John Hubbard, but--
7	Judge Pebler:	--Oh.
8	ADA Smith:	--I think it to be fine to release it there, but--
9	Judge Pebler:	--You don't need my signature on anything, do
10		you?
11	ADA Smith:	No, it's just whether the DA's office needs it for
12		evidence, because I don't think they do, so--
13	Judge Pebler:	--Okay.
14	ADA Smith:	That's what I was doing. I gave her the DA's
15		number and she's going to call him.
16	Judge Pebler:	That was my phone call from the mother before.
17		You know, she's all concerned, so-- Okay. That's
18		all I have, so ...
19	ADA Smith:	Thank you, Judge.
20	Judge Pebler:	Yep. Have a good one.
21	ADA Smith:	Yep. See you later.
22	Judge Pebler:	Yep. Mr. Rikard, you're on the clock. Just letting
23		you know, so ...
24	Mr. Scharf:	Thank you, Judge.
25	Judge Pebler:	All right. Have a good one.

*(People v Chad M. Ostrander)*

1	Mr. Scharf:	Thanks, Judge.
2	Mr. Rikard:	I like being on the clock.
3	Judge Pebler:	Okay. So, 9:27, (unintelligible) number. Chad, I
4		write your name just like I write my name, so easy.
5		God, if only you would have just slowed down.
6	Mr. Ostrander:	I know. I would have been-- I know. That's all I
7		had to do. That's it. (Unintelligible). I can't work
8		now.
9	Judge Pebler:	All right. 120.25. Second degree.
10		(Unintelligible). Yeah, we got that. We got that.
11		Okay. Deputy, can I ask you a favor?
12	Deputy:	Yes, sir.
13	Judge Pebler:	Since he is watching your prisoner, can you put this
14		through the copying machine, face up, and make a
15		copy for me? All right. Amy, do you need
16		anything else from me?
17	Ms. Gancio:	I don't. No.
18	Judge Pebler:	Okay. Chad, do you need anything else from me?
19	Mr. Ostrander:	Sir, (unintelligible).
20	Judge Pebler:	Yeah, I wish I could let you out, but--
21	Mr. Ostrander:	--Yeah, (unintelligible).
22	Judge Pebler:	Sometimes, you know, these things give me
23		goosebumps and you did something really stupid,
24		but at least you can-- what's going to happen in
25		Delhi is a whole different story.

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1 Mr. Ostrander: The felony?  
2 Judge Pebler: I don't want-- I don't want to hear anything  
3 without your attorney present, so-- But anyway, so  
4 somehow, probation is going to contact you to get  
5 the information they need. You get the original.  
6 You got it? Okay?  
7 Deputy: Yes, Judge.  
8 Judge Pebler: Does it sound-- Does it look good to you? At least  
9 I've been doing it long enough, I should have it all  
10 done down pat, so--  
11 Deputy: --Do you have a (unintelligible)?  
12 Judge Pebler: No, there's no docket number, because Sandy's not  
13 here to put it in the computer yet and she's out sick,  
14 so I'm screwed.  
15 **(June 13, 2018 from 10:29:36 AM to 10:30:26 AM)**  
16 Mr. Rikard: But if not today, you know, it'll be Wednesday or  
17 whatever, I'll probably get it right out to you. All  
18 right?  
19 Judge Pebler: Okay. If I-- If you don't get it back, you know it  
20 came through the fax and that I haven't done  
21 anything.  
22 Mr. Rikard: (Unintelligible)--  
23 Judge Pebler: --Because I assume I have to come back on Friday  
24 to do the bail bondsman, so--  
25 Mr. Rikard: For?

1 Judge Pebler: Mr. Ostrander.  
2 Unknown Male: Of course it's him.  
3 Judge Pebler: Yeah, so-- Yeah, because, hey, I don't know  
4 what's going to happen with the Class A felony  
5 down in Delhi, so--  
6 Mr. Rikard: --What was he, Class A?  
7 Judge Pebler: Class A. Yeah. That-- Unless, again, they drop it  
8 to a lesser charge.  
9 Mr. Rikard: What are you-- If he started out with Class A, and  
10 he goes down to a D or an E, you're doing pretty  
11 good, given his record.  
12 Judge Pebler: Right.  
13 Mr. Rikard: (Unintelligible).  
14 Judge Pebler: We are on the record, yeah. They-- you know--  
15 All right. We're done with this proceeding for the  
16 time being so I can-- As long as it's beeping,  
17 we're off the record, so--  
18 **(June 13, 2018 from 10:47:06 AM to 10:58:33 AM)**  
19 Mr. McDaniel: --I didn't know if they could do that.  
20 Judge Pebler: That's what's called talk to mom and dad first.  
21 Ms. McDaniel: Or don't do it.  
22 Judge Pebler: Come on. There's nothing-- I have-- You know  
23 something? I have no problem with smoking  
24 marijuana, just don't smoke it in the car and go  
25 down the road. I always said to my surgeons and

1 stuff like that, I'm all in fav-- all in favor for  
2 smoking marijuana, but not before you operate on  
3 me.  
4 Ms. McDaniel: Yeah, right.  
5 Judge Pebler: You know? Or a pilot. How would you like to  
6 have your pilot having a toké before they took off?  
7 "Oh, excuse me." So, all right. So, Ethan, how  
8 are you going to pay-- You want to pay this today?  
9 Mr. McDaniel: Yes, sir.  
10 Judge Pebler: Total of \$243 even, because we can't make change.  
11 Ms. McDaniel: (Unintelligible).  
12 Mr. McDaniel: (Unintelligible).  
13 Ms. McDaniel: All right. Can I have that?  
14 Mr. McDaniel: Which?  
15 Ms. McDaniel: Wow. (Unintelligible). \$20, \$40. (Unintelligible).  
16 Mr. McDaniel: All right. (Unintelligible).  
17 Ms. McDaniel: \$70, \$80, (unintelligible), \$11, \$20.  
18 Judge Pebler: I can do \$25 and--  
19 Ms. McDaniel: --(Unintelligible) is \$26, the other's another \$20.  
20 Judge Pebler: The total is \$613.  
21 Mr. McDaniel: There's \$243.  
22 Judge Pebler: Yes, sir. You've got to count it out in front of me.  
23 I can't touch it until we're all done.  
24 Mr. McDaniel: All right. 20, 40, 60, 80, 100, 20, 40, 60, 80, 100.  
25 Judge Pebler: Mm-hmm.

*(People v Chad M. Ostrander)*

1 Mr. McDaniel: 20, 30, 40, 1, 2, 3.  
2 Judge Pebler: Very good.  
3 Ms. McDaniel: Wayne, is there any way you can check his license  
4 and see if there are points on it or what his-- I  
5 don't know what you would call it--  
6 Judge Pebler: --On this charge or-- On these charge, there is no  
7 points.  
8 Ms. McDaniel: But like, his--  
9 Judge Pebler: --Abstract?  
10 Ms. McDaniel: --Now, what's that mean?  
11 Judge Pebler: Hang on.  
12 Mr. McDaniel: Thank you.  
13 Judge Pebler: That's yours. Let me just put this-- I'm not  
14 capable of doing two things at one time. I'm only  
15 capable of doing one thing. I'm sorry. I don't  
16 mean to be--  
17 Ms. McDaniel: You're all right. Don't worry (unintelligible).  
18 Judge Pebler: I gave you a receipt, yes?  
19 Mr. McDaniel: Yeah.  
20 Judge Pebler: What could you have gotten the ticket-- points for?  
21 Did you get a ticket before?  
22 Mr. McDaniel: I've got-- The one time that I got a ticket, and any  
23 points on my license, is when I first got my license  
24 and I believe that during that time, it was if you  
25 stayed clean for six months or twelve months or



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1 something--  
2 Judge Pebler: --It's two-- It's two years before--  
3 Mr. McDaniel: --Two years?  
4 Judge Pebler: --the points get reduced.  
5 Mr. McDaniel: Okay. Well, I mean--  
6 Judge Pebler: How old are you now?  
7 Mr. McDaniel: 21.  
8 Judge Pebler: And when did you get your ticket, when you were  
9 16?  
10 Mr. McDaniel: 16, 17, yeah.  
11 Judge Pebler: Yep. Your points are gone.  
12 Ms. McDaniel: Okay.  
13 Judge Pebler: You know, just to help people out is take the  
14 defensive driving course. It costs \$35, takes four  
15 points off your license and takes 10 percent off  
16 your insurance, especially him being under 26.  
17 Every little bit helps.  
18 Mr. McDaniel: Yeah.  
19 Ms. McDaniel: Yeah, I did it for our household.  
20 Judge Pebler: Yeah, so you have to do it every three years.  
21 Ms. McDaniel: It's boring as hell, but.  
22 Judge Pebler: Yeah, I-- Well, you can do it online and that--  
23 that's how I do it.  
24 Ms. McDaniel: And then, so if he had come to you when-- You  
25 got the ticket in December?

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1 Judge Pebler: November.  
2 Ms. McDaniel: November. And there was a court date in  
3 December.  
4 Judge Pebler: No, that was the day to pay the fine.  
5 Ms. McDaniel: Oh, and he had come here and talked to you, could  
6 he have, A. pled not guilty and gotten the  
7 marijuana dismissed or whatever you call it?  
8 Judge Pebler: Correct.  
9 Ms. McDaniel: And could he have arranged for payments?  
10 Judge Pebler: Absolutely, yeah.  
11 Ms. McDaniel: If he had come on the day of payment?  
12 Judge Pebler: No, the day of being sentenced, he-- I said, "Do  
13 you need time to pay this?" And he goes, "Yeah."  
14 Mr. McDaniel: Yeah, I wasn't (unintelligible).  
15 Ms. McDaniel: Oh, I see.  
16 Judge Pebler: So, I--  
17 Mr. McDaniel: --Then I waited.  
18 Ms. McDaniel: He never did.  
19 Judge Pebler: And he forgot about us, that's all. I mean,  
20 everybody does. I mean, let's face it. It's not their  
21 priority, that's why I always tell you and if you  
22 listen to my recordings, because everything is  
23 being recorded here, I always say, "Fine, I'll give  
24 you all the time in the world to pay it up to a year."  
25 I mean, I'm not going to go beyond a year. I says,

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1 "Take this home and tape it to your refrigerator  
2 door, close to the handle so you don't forget it."  
3 Ms. McDaniel: That's very reasonable. I mean, like he's living  
4 hand to mouth--  
5 Judge Pebler: --I understand. I mean, he's got, you know, no job  
6 offers?  
7 Mr. McDaniel: No, I've got a job.  
8 Judge Pebler: Oh, okay. But, I mean--  
9 Mr. McDaniel: --It's just a lot of bills to pay, too.  
10 Judge Pebler: See, that's the thing. Everybody lives beyond what  
11 they can really afford and--  
12 Ms. McDaniel: --And then if anything gets thrown in the mix,  
13 then--  
14 Judge Pebler: --That's what throws it off. Chad Ostrander was  
15 here this morning and he's got 18 tickets or 16  
16 tickets before this court. He's going to federal pen  
17 eventually, so-- over this, whatever he did, and  
18 you know, I says, "You need an attorney?" "Yep."  
19 He-- And I says, "Well, you work full time?"  
20 "Yep." I go, "Well, you can't get an assigned  
21 attorney. You make--" "Well, I don't make any  
22 money. I've got two kids I've got to support, pay  
23 child support on." I'm saying, "Well, one thing,  
24 child support is not considered part of your poverty  
25 level."

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1	Ms. McDaniel:	Okay.
2	Judge Pebler:	That's because you couldn't keep your legs--
3		Never mind. You know where I'm going. I mean,
4		this is-- This is a choice that you made--
5	Ms. McDaniel:	--I know how it is. Right.
6	Judge Pebler:	You had a choice to have two kids.
7	Ms. McDaniel:	Right.
8	Judge Pebler:	We had a choice of having three kids. We didn't
9		want more. That's all we could afford at the time.
10		So, I wish we could have had more now as we're
11		older, but that's always the case. But, I mean,
12		again, people live beyond what they're doing. I
13		have seen more people leaving my courtroom and
14		they go, when they get out-- walking out that door
15		and I'm saying there's \$100 a week easy.
16	Mr. McDaniel:	Oh, yeah.
17	Judge Pebler:	You know?
18	Ms. McDaniel:	And then car payments, which I (unintelligible)--
19	Judge Pebler:	--And look, insurance. I mean, that's-- Car tires. I
20		mean, you buy a car tire today, it's \$140. I mean, I
21		remember only paying like \$30. I went like-- We
22		just put them on our car and it's over \$1,000, and
23		I'm like, "Whoops."
24	Ms. McDaniel:	What do you drive?
25	Judge Pebler:	An Odyssey. It's outside here.

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1	Ms. McDaniel:	Oh, yeah, that van.
2	Judge Pebler:	Yeah, so--
3	Ms. McDaniel:	--Yeah, it's a lot of money.
4	Judge Pebler:	Yeah, it is. You know, it is what's-- the way
5		things are going and--
6	Ms. McDaniel:	--But the thing of it is--
7	Judge Pebler:	--Yeah.
8	Ms. McDaniel:	--and it's taken me since (unintelligible)--
9	Judge Pebler:	We're holding you up. You can go, Ethan.
10	Mr. McDaniel:	No, I'm fine. I'll wait for her. I don't want to--
11	Judge Pebler:	--Oh, you're together?
12	Mr. McDaniel:	No, I drove separately. I just wanted to say bye to
13		her.
14	Judge Pebler:	Okay. It's a little-- Mom is-- Mom is good at
15		helping you out. I know.
16	Mr. McDaniel:	She's the best.
17	Judge Pebler:	That's right. So, how's things at Manhattan
18		Country School?
19	Ms. McDaniel:	Very good. (Unintelligible) director now.
20	Judge Pebler:	Oh, cool.
21	Ms. McDaniel:	Yep. And--
22	Judge Pebler:	--Good.
23	Ms. McDaniel:	--I'm moving out of the kitchen and going up to the
24		textile studio--
25	Judge Pebler:	--Wow.

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1 Ms. McDaniel: --so I'll be working with the wool and I'll stock the  
2 kitchen, it's starting to just like eating at me like  
3 (unintelligible).  
4 Judge Pebler: Too much.  
5 Ms. McDaniel: Just like, "Donna, Donna (unintelligible)." I just--  
6 Judge Pebler: --Yeah.  
7 Ms. McDaniel: --need a break.  
8 Judge Pebler: Yeah. And so--  
9 Ms. McDaniel: --(Unintelligible).  
10 Judge Pebler: --No. The tall one.  
11 Ms. McDaniel: Lynn?  
12 Judge Pebler: Lynn is not working--  
13 Ms. McDaniel: --She retired last year.  
14 Judge Pebler: She retired. Okay. Yeah. No, because I had  
15 Donna-- I had Donna. I had Ginny here with her  
16 son.  
17 Ms. McDaniel: Oh, right.  
18 Judge Pebler: Now he's got in more hot water, so I don't know  
19 what's going to happen there, so--  
20 Ms. McDaniel: --The last I knew, he got arrested for petit larceny.  
21 Judge Pebler: Yeah.  
22 Ms. McDaniel: I don't know after that.  
23 Judge Pebler: That's the one that's pending though. It's--  
24 Ms. McDaniel: --There's one after that?  
25 Judge Pebler: Yeah. Plus, he had that bad accident with the car.

*(People v Chad M. Ostrander)*

1	Ms. McDaniel:	Oh right, and then he left.
2	Judge Pebler:	And he totaled a car and stuff like--
3	Ms. McDaniel:	--(Unintelligible).
4	Judge Pebler:	Yeah. He bent the frame on it and that was the
5		end.
6	Ms. McDaniel:	(Unintelligible).
7	Judge Pebler:	But, I mean, the cops load everybody up with
8		tickets.
9	Ms. McDaniel:	Mm-hmm.
10	Judge Pebler:	You know, the minute-- You know, when they
11		pulled him over for whatever vehicle thing, they
12		went through his cargo. Okay, now, you know,
13		you're not supposed to be doing this.
14	Ms. McDaniel:	Right.
15	Judge Pebler:	What you do at home is a whole different story.
16	Ms. McDaniel:	Right.
17	Judge Pebler:	I don't care as long as it's not in a car, so--
18	Ms. McDaniel:	--As long as it doesn't affect other people.
19	Judge Pebler:	You know something? What's going to happen to
20		anybody that's on marijuana has an accident?
21		That's just as bad as alcohol now. Now, you're
22		going to lose your license for 90 days and how can
23		you survive in the country up here without a
24		driver's license?
25	Ms. McDaniel:	Yep.

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1 Judge Pebler: I mean--  
2 Ms. McDaniel: He was one day away from using the bus. He  
3 wasn't-- He's living in Troy. He'll just use the  
4 bus.  
5 Judge Pebler: Yeah, I-- But then, that's not very good either,  
6 because it ends up costing you more money--  
7 Ms. McDaniel: Right.  
8 Judge Pebler: You know? So, it's one thing after another, so--  
9 Ms. McDaniel: --(Unintelligible)?  
10 Mr. McDaniel: No, it's the (unintelligible).  
11 Judge Pebler: Yeah. Now--  
12 Ms. McDaniel: --(Unintelligible) registration form?  
13 Judge Pebler: Anyway, we're cool, we're fine. You know, and  
14 my court clerk is not-- Do you know when the-- it  
15 goes into effect, the, you know, scofflaw? New  
16 York State's going to--  
17 Ms. McDaniel: --What is that?  
18 Judge Pebler: It's when they take away your driving privileges in  
19 New York State.  
20 Ms. McDaniel: For what?  
21 Judge Pebler: For failure to pay a ticket, failure to appear in  
22 court, failure to contact the court, whatever.  
23 Mr. McDaniel: Oh, so that would have gone into place today?  
24 Ms. McDaniel: No, no, no. That's for this particular effect--  
25 Mr. McDaniel: --Oh.



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1 Ms. McDaniel: --and he's talking about New York State is  
2 implementing (unintelligible)--  
3 Judge Pebler: --They sent you a letter, the Department of  
4 Transportation, DMV sent you a letter saying that  
5 within so many days, your driving privileges are  
6 going to be suspended.  
7 Ms. McDaniel: Right. Or then, there was another one like  
8 incarcerated. I think (unintelligible)--  
9 Judge Pebler: --They always threaten incar-- Even my-- our  
10 letter says, "Failure to pay could lead to your  
11 incarceration--"  
12 Ms. McDaniel: --Well--  
13 Judge Pebler: --you know, because, again, every charge, if it's--  
14 you go through a stop sign, it could be a 10-day  
15 jail sentence added.  
16 Ms. McDaniel: Right.  
17 Judge Pebler: Who goes to jail for a stop sign, unless you've  
18 done it 20 times over again--  
19 Ms. McDaniel: --(Unintelligible). Right.  
20 Mr. McDaniel: Must have been something (unintelligible).  
21 Judge Pebler: But, I mean, I'm just trying to figure out the court  
22 date, because my court clerk is sick and then if it  
23 goes into effect today, it's going to be on the record  
24 that, you know, if you get stopped somewhere,  
25 you're going to-- They're going to give you a

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1 ticket for failure to have a driver's license.  
2 Ms. McDaniel: Oh, because even though he paid, it's not  
3 documented?  
4 Judge Pebler: Yeah, don't lose that--  
5 Mr. McDaniel: --I was going to say, can I hold onto this?  
6 Judge Pebler: Absolutely. You carry that in your wallet for the  
7 next month or more.  
8 Ms. McDaniel: With your registration folder--  
9 Mr. McDaniel: --I will.  
10 Ms. McDaniel: --where your insurance is.  
11 Judge Pebler: Well, again, if he gets stopped--  
12 Mr. McDaniel: --Yeah.  
13 Judge Pebler: --I mean, his license-- Suppose it gets suspended--  
14 Ms. McDaniel: --Okay.  
15 Judge Pebler: --and he's walking down the street and somebody  
16 says, "Do you have any type of identification?  
17 Well, your license is no good, young man." I  
18 mean, come on. You know?  
19 Ms. McDaniel: Oh, I see. I see.  
20 Judge Pebler: So, at least he's got that that he's come to court.  
21 Ms. McDaniel: (Unintelligible). Okay.  
22 Judge Pebler: So--  
23 Ms. McDaniel: --And when you said that your clerk sent a letter  
24 out saying that it's--  
25 Judge Pebler: --Electronically, it gets filed automatically when

*(People v Chad M. Ostrander)*

1 she gets-- if she shows up tonight, being how sick  
2 she is--  
3 Ms. McDaniel: --Oh, okay.  
4 Judge Pebler: --she-- she'll send it up to Albany electronically.  
5 Ms. McDaniel: Okay, great.  
6 Judge Pebler: Hi Steve.  
7 Ms. McDaniel: Hi.  
8 Judge Pebler: So, you know, that's how that-- That's--  
9 Everything is being done electronically. If it was  
10 the old way, I could do-- give you a letter and  
11 everything and he'd be on his way, but I can't do it  
12 no more. Look, there's two computers, there's  
13 another one over there. So, I mean, it's just things  
14 that drive me nuts.  
15 Mr. McDaniel: I'll just be careful. I'll have that on me.  
16 Judge Pebler: As long as you have that receipt, you can show that  
17 you took care of this ticket today, so--  
18 Mr. McDaniel: --All right.  
19 Judge Pebler: All right? You're free to go.  
20 Ms. McDaniel: Thank you.  
21 Judge Pebler: Say hello to John for me.  
22 Ms. McDaniel: I will.  
23 Judge Pebler: All right.  
24 Ms. McDaniel: Good to see you again.  
25 Judge Pebler: Take care, Ethan.

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1	Mr. McDaniel:	Have a good one. Take it easy.
2	Judge Pebler:	Take care, Donna.
3	Ms. McDaniel:	Bye.
4	Judge Pebler:	So, Officer Williamson, how are you doing?
5	Ofc. Williamson:	You had what's-his-name here again?
6	Judge Pebler:	We had Mr. Ostrander in here this morning, so--
7	Ofc. Williamson:	--I should have come and pounded him in his ass.
8	Judge Pebler:	We are paused here.
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CERTIFICATION

I, COURTNEY FRENCH, Junior 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: May 28, 2019

Courtney French  
Courtney French

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

Transcript of Proceedings held on August 1, 2018,  
(8:05:27 AM to 8:07:22 AM)  
(8:33:20 AM to 8:34:32 AM)  
(10:39:55 AM to 11:15:59 AM)  
before Hon. Wayne R. Pebler, a Justice of the  
Roxbury Town Court, Delaware County

**EXHIBIT B**

1 (August 1, 2018 from 8:05:27 AM to 8:07:22 AM)

2 Unknown Female: The other day, Sandy was here when I stopped in  
3 and I saw Chad and Amy walking by the car wash.

4 Judge Pebler: Yeah.

5 Unknown Female: When did he get out?

6 Judge Pebler: He-- They vacated the arrest warrant. I got it right  
7 here.

8 Unknown Female: So, what does that mean?

9 Judge Pebler: That they vacated it. It's no more-- in effect.

10 Unknown Female: Oh, really? So--

11 Judge Pebler: --So, I don't know what's going on with the DA's  
12 office. I won't know until Shawn Smith shows up  
13 and--

14 Unknown Female: --So, he gets in no trouble for what he did over in  
15 the jail?

16 Judge Pebler: How did they-- He pled to one charge-- And see,  
17 that's what bothers me and I'm on the record, so  
18 I've got to be careful how I say this. He pled to one  
19 charge of the three in Delhi court, with the  
20 stipulation that he's going to be sentenced to six  
21 months from Judge Pebler's court. Well, wait a  
22 second, I wasn't advised of anything. Nobody even  
23 talked to me about this.

24 Unknown Female: Yeah.

25 Judge Pebler: So, give me a break here. I mean, this is not-- This

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1		is not to be held under the table. This should be out
2		in the open.
3	Unknown Female:	Yeah, well that stinks.
4	Judge Pebler:	So, it's going to be interesting to see what happens,
5		so--
6	Unknown Female:	--I guess. (Unintelligible) moment.
7	Judge Pebler:	It's-- You know something? He's dealing drugs
8		and they don't seem to care.
9	Unknown Female:	Nope.
10	Judge Pebler:	I'm sorry. If this is what's happening, I mean, why
11		would he have it up his back end if he's not
12		dealing?
13	Unknown Female:	Right. And if he's got a prescription for it or
14		whatever.
15	Judge Pebler:	Yeah, I mean, like why not hide it underneath the
16		dashboard or--
17	Unknown Female:	--Unbelievable.
18	Judge Pebler:	There's something wrong with this picture here and
19		somebody's not understanding, and I'm just a
20		layman here, so I just look at it commonsense wise
21		and--
22	Unknown Female:	--Well, that's good.
23	Judge Pebler:	You know, I just don't get it, so it's what it is. You
24		do what you have to do and--
25	Unknown Female:	--Keep going on, right?



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1 Judge Pebler: That's right, so--

2 Unknown Female: --(Unintelligible).

3 Judge Pebler: Have a good one.

4 Unknown Female: Yep.

5 **(August 1, 2018 from 8:33:20 AM to 8:34:32 AM)**

6 Judge Pebler: Chad Ostrander.

7 ADA Smith: Yeah, I was going to ask you about that. I'm  
8 having a tough time with him.

9 Judge Pebler: I got the letter from Judge Gumo that he has an  
10 arrest warrant out for him, a letter from you, from  
11 the DA's office, that he failed to abide by what's  
12 happening in my court. I have no information at  
13 all. Nobody's made any recommendations to me.  
14 Nothing. So, how did you come up with a  
15 conclusion of six months in my--

16 ADA Smith: We said we were going to offer him six months  
17 here and Randy Scharf said that he-- that we had  
18 promised him time served on the drug case. I said,  
19 "Randy, I don't think we ever did that." He said,  
20 "Yeah, you did, because he was going to testify  
21 against the other guy. Blah, blah, blah." So, he  
22 said, "He's okay with pleading guilty in Roxbury."  
23 It's actually nine months and then he weaseled  
24 John down to six months. I said-- I said, "Well, if  
25 he pleads guilty in Roxbury and the judge

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1 sentences him to six months,” that’s why the plea  
2 agreement-- we-- because we didn’t-- you could  
3 say, “No, it’s too low or too high.”  
4 Judge Pebler: Right. Well, my problem is there’s so many  
5 charges and you’re dropping them all to plead to  
6 one, I assume.  
7 ADA Smith: Well, at this point, not anymore though, because--  
8 Judge Pebler: --Well, the--  
9 ADA Smith: --At this point, I was going to ask you to put a  
10 warrant out for him.  
11 Judge Pebler: Okay. Let me go here. Pull-- (Audio skips  
12 ahead).  
13 **(August 1, 2018 from 10:39:55 AM to 11:15:59 AM)**  
14 ADA Smith: Before you shut down, can I request a warrant for  
15 Ostrander on it?  
16 Judge Pebler: That’s what I was going over there for.  
17 ADA Smith: Oh, okay. Thanks.  
18 Judge Pebler: Because I assume that’s what Steve wanted?  
19 ADA Smith: Yes, that is. Right. I don’t know, Gumo got mad at  
20 us for something. Do you know Judge Gumo?  
21 Judge Pebler: Absolutely.  
22 ADA Smith: He’s nice and I like him, but it’s tough because he’s  
23 a defense attorney.  
24 Judge Pebler: He is. He is an attorney.  
25 ADA Smith: Then he goes against us and then if he doesn’t make

1 out on the case, he gets (unintelligible)--  
2 Judge Pebler: (Unintelligible) used to do the same thing with all  
3 the state police and the DAs, because he knew the  
4 law, right?  
5 ADA Smith: Right.  
6 Judge Pebler: I mean, he made-- he would have made a good  
7 lawyer in my eyes. I don't know if you ever met the  
8 man or not--  
9 ADA Smith: --No, I never have.  
10 Judge Pebler: --but, I mean, I had loads of respect for him until he  
11 started pulling his crap that he was doing. But  
12 that's-- You can't take the law into your own hands.  
13 ADA Smith: Right. Right. Well, but Gumo is a defense attorney,  
14 so he will go against us in the other court--  
15 Judge Pebler: --Yeah.  
16 ADA Smith: --and then I'm in his court and it's kind of awkward,  
17 because we were just against him in the other one.  
18 Judge Pebler: All right. I think I've got Chad's here. All right.  
19 This is Judge Gumo's stuff. That can go back there.  
20 This is still on. So, what do you think is going to  
21 happen with the outcome with *Alderfer*? Oh, don't  
22 say. No, no, no.  
23 ADA Smith: They're still back there.  
24 Judge Pebler: No. I've got to get off. Hey, what do you think,  
25 Chad Ostrander's case?

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1 Clerk Rockwell: Yeah.  
2 Judge Pebler: I need that somewhere.  
3 Clerk Rockwell: What, is he going away?  
4 Judge Pebler: That's what they're asking for.  
5 Clerk Rockwell: Really?  
6 ADA Smith: Well, I mean he's supposed to be away now and he  
7 apparently pulled a fast one on us, so he--  
8 Clerk Rockwell: --Oh, that's right.  
9 ADA Smith: Yeah.  
10 Clerk Rockwell: He made bail, didn't he?  
11 ADA Smith: He had been-- He-- We put-- In Delhi, I talked to  
12 his attorney. We all said, "Look, we will give you  
13 time served as long as you agree to a sentence in  
14 Roxbury and don't bail yourself out." So, he said,  
15 "Okay." His attorney said, "Okay," and everything's  
16 fine, so we made that offer contingent on this.  
17 Judge Pebler: So--  
18 ADA Smith: --The night before we left court, his aunt had him  
19 bailed out, because we didn't-- Me and Randy were  
20 supposed to ask you to revoke bail, but before we  
21 did, he was bailed out like 20 minutes later.  
22 Clerk Rockwell: Are they going to pick him up?  
23 ADA Smith: I hope.  
24 Judge Pebler: They can't. Well, only if I--  
25 ADA Smith: --Only if you do the warrant. Yeah.

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1 Judge Pebler: --do the warrant.  
2 Clerk Rockwell: I thought you did. You didn't?  
3 Judge Pebler: No, because he was doing a pre-plea investigation or  
4 a probation investigation down there in Delhi, so  
5 that's off the-- off the record, or that's off--  
6 ADA Smith: --But he still needs it, because his offer is nine  
7 months, so he needs to-- he could do a pre-sentence  
8 or they could do whatever.  
9 Judge Pebler: All right. So, why are we-- Why are you asking the  
10 court-- We're on-- We're on the record and we're  
11 discussing Chad Ostrander's case and why are you  
12 asking for an arrest warrant on Brett-- on Chad?  
13 ADA Smith: Two things, Judge. One: I talked to his attorney  
14 about it, we could even call him if you want, but he  
15 violated the terms of his plea agreement in Delhi.  
16 So, when we-- when we were-- This is on the  
17 record--  
18 Judge Pebler: --Right. This is on the-- This is being recorded right  
19 now.  
20 ADA Smith: --put it on the record, so defense counsel and I  
21 conferenced his pending felony charges in Delhi and  
22 the agreement there was if he was going to plead  
23 guilty to a misdemeanor in Delhi, get time served  
24 with the understanding that he would stay in jail,  
25 remain in jail on the Roxbury charges and that he

1 would come here, enter a plea and receive, if it was  
2 acceptable to the court, a sentence of six months.  
3 Since then, he-- before defense counsel and I, it was  
4 our agreement that we were going to send you a  
5 letter asking you to revoke bail since he had agreed  
6 to plead and be sentenced, but before we were able  
7 to get that to you, his aunt bailed himself out--  
8 bailed him out. He sent a letter to Judge Gumo  
9 saying it was-- he was shocked, he was sleeping in  
10 his cell and he got a knock on the door that he was  
11 bailed out and he had no idea he was going to be  
12 bailed out.  
13 Clerk Rockwell: He's lying.  
14 Judge Pebler: Yeah.  
15 Clerk Rockwell: Oh, Santa Claus.  
16 Judge Pebler: We've got to get the drugs back to mom.  
17 Unknown Male: We're on the record, too.  
18 Judge Pebler: All right. So--  
19 ADA Smith: --And I think the status of his bail here was really,  
20 we just all agreed we would put some minimal bail  
21 on him.  
22 Judge Pebler: \$2,500 bail.  
23 ADA Smith: Right. That way he would just be accumulating  
24 time--  
25 Judge Pebler: --Right.

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1     ADA Smith:                --on these charges, instead of being out.  
2     Judge Pebler:            So, now you want to do an arrest warrant or you  
3                                want me to revoke-- There's no revoking bail, he  
4                                hasn't made bail on me.  
5     ADA Smith:                He made bail on you, there's no--  
6     Judge Pebler:            --Oh, there's nothing on Gumo? No bail on Gumo?  
7     ADA Smith:                No. No, because he was-- he pled in Gumo's court.  
8                                So, he didn't--  
9     Judge Pebler:            --So, he had to revoke his bail and put an arrest  
10                               warrant out for him. Do you know how to do that?  
11                               I've never done a revoke before. This is going to be  
12                               a first. Have you ever done it?  
13    ADA Smith:                Do you want to call Randy Scharf and see if he--  
14                               just so he's on the record so he-- Because he agreed  
15                               with me--  
16    Clerk Rockwell:          --That's probably a good idea.  
17    ADA Smith:                --when I talked to him about it, he said, "I told that  
18                               guy that if he screwed this up, he's going to state  
19                               prison." That might be an exaggeration.  
20    Judge Pebler:            ██████████. He's probably in court.  
21    ADA Smith:                He's pretty good, usually, at answering.  
22    Judge Pebler:            Every time I've ever called him, he's always picked  
23                               up the phone.  
24    ADA Smith:                Yeah, it rings on his cell and his home and then--  
25    Judge Pebler:            --Oh, does it?

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1     ADA Smith:            --one number it rings all over, unless he's in court  
2                            like you said.  
3     Judge Pebler:        Now, I've got a beep. Must be a fax number.  
4     ADA Smith:           I don't know if I have a better number. It's right  
5                            behind me. Dave Gordon.  
6     Clerk Rockwell:      That's probably him.  
7     Judge Pebler:        (On telephone): Roxbury Court, Judge Pebler  
8                            speaking. Yes. (Off telephone): Okay, Sandy, it's  
9                            for you. It's mental health. They know you're crazy,  
10                           so--  
11    Clerk Rockwell:      --I've been waiting all my life.  
12    Judge Pebler:        (On telephone): I hope you heard that. She was  
13                            waiting all her life for this phone call. Let's see if  
14                            she's there. Hang on.  
15    Clerk Rockwell:      She's here.  
16    Judge Pebler:        Yep.  
17    Clerk Rockwell:      (On telephone): How are you? I don't know that I  
18                            filled out the clearance--  
19    ADA Smith:            --I could call our office and get the number, Judge.  
20    Judge Pebler:        Let's see what we've got here. Phone number,  
21                            Randy, oh, what number-- the hell number is that?  
22                            That's not even his fax. "He will call him later, not  
23                            assigned." Well, I don't know why that's on there.  
24                            So, it is 746-- That's why he probably-- not picked  
25                            up.



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1     ADA Smith:            I don't have a 746 number for him. I've got a-- You  
2                               can try it, but that's not the one that we've got.  
3     Judge Pebler:        This is-- Must be the Delhi office, yep. Delhi suite--  
4     ADA Smith:           --I don't think he has an office there anymore.  
5                               Maybe--  
6     Judge Pebler:        No?  
7     ADA Smith:           No. Maybe the number will ring over though, we'll  
8                               try it.  
9     Judge Pebler:        I have to wait for her to get off. Revoke his bail,  
10                            huh? I wish I could take the bail away from him and  
11                            give it to the town, but that's not happening, so ...  
12    ADA Smith:           I'll get you a copy of the letter he sent to Judge  
13                            Gumo, but he says that, "I understand in Roxbury I  
14                            did the crime, I've got to do the time." He said, "I'm  
15                            happy to do it,--"  
16    Judge Pebler:        --He just--  
17    ADA Smith:           "--but not until September 5<sup>th</sup>." On September 5<sup>th</sup>,  
18                            which you put as the date, because he was getting a  
19                            pre-plea done not for him to be out, galivanting  
20                            around the world.  
21    Judge Pebler:        When I arraigned him, he was all worried about his  
22                            job. "I'm going to lose my job." I said, "Well, talk  
23                            to your attorney, see if you can have the felony  
24                            hearing and if they waive it, then you possibly get  
25                            out." Then, we lowered the bail from \$5,000 down

1 to \$2,500. And there are sometimes my-- a little  
2 thing on my--  
3 ADA Smith: --(Unintelligible).  
4 Judge Pebler: --my head says, "Don't lower it," but then I go,  
5 "Yeah, why should I go against you guys?" I mean--  
6 ADA Smith: --Well, I-- You know, did I request the law? I don't  
7 know if I requested the law.  
8 Judge Pebler: Randy requested it and we all went along with it.  
9 Come on.  
10 ADA Smith: You see, I figured he was in anyway--  
11 Judge Pebler: --Yeah, so--  
12 ADA Smith: --but he's got two prior felony convictions, he's got  
13 another 10 misdemeanors (unintelligible)--  
14 Judge Pebler: --Oh, he's got a record on him, I mean, that's why--  
15 And then, when he gets taken to the jail and then  
16 they check him out and he's got drugs up his  
17 backside and good old mom has lost her supplier.  
18 Sorry, but that's on the record, but that's just loc--  
19 that's local knowledge. That's not proof of any kind,  
20 so--  
21 ADA Smith: --Does his girlfriend still work here?  
22 Judge Pebler: Pardon me?  
23 ADA Smith: Does his girlfriend still work here?  
24 Judge Pebler: No.  
25 ADA Smith: No? She was fired?

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1 Judge Pebler: She was fired because she has so many outstanding  
2 tickets or someplace else and I mean, I liked Amy. I  
3 had no problem, but I mean, she--  
4 ADA Smith: --But she's-- I don't know why they're together then  
5 if she's a good girl.  
6 Judge Pebler: You know, she says she tests clean. I don't know  
7 how they test you. My opinion when I was a school  
8 bus driver, me being who I am, kept his nose clean.  
9 So, every time there was a drug test done in the bus  
10 garage, "Uh, Pebler, you're up." None of the other  
11 eleven drivers were ever called in to pee in a bottle.  
12 ADA Smith: Oh.  
13 Judge Pebler: And I'm not kidding you, it's kind of embarrassing  
14 to be having a Female behind me, watching me pee  
15 in the--  
16 ADA Smith: --Yeah, that's--  
17 Judge Pebler: --but that's the way it went and it always came back  
18 clean. There was a question one time because I had  
19 a lot of sesame seeds on a roll and that I had to  
20 explain, "Look, I had two sandwiches for lunch."  
21 And this-- the test was done at 2:00-- whatever the  
22 hell time it was. I can't remember. So, it wasn't  
23 drastic of any kind, so-- But I said, "All you other  
24 guys who drink like a fish every night, I get drug  
25 tested. You guys never get drug tested," and I drove

1 for 13 years. Every four months, "Pebler, you're  
2 up."  
3 ADA Smith: (Unintelligible).  
4 Judge Pebler: Why is Pebler up? You know, I got used to it. I go,  
5 "It was no problem." You know? Are you still on  
6 the phone?  
7 Clerk Rockwell: No.  
8 Judge Pebler: You off the phone?  
9 Clerk Rockwell: Yes. We don't want a 730 exam, we just want a  
10 (unintelligible) exam.  
11 Judge Pebler: You've got it on, for some reason or another, dear.  
12 Your phone is on. Now what happened? Messed up  
13 my phone. Now it goes.  
14 Clerk Rockwell: Article 730 is not what we want to use.  
15 ADA Smith: (Unintelligible) called it. That's just the section to  
16 do mental health eval. That's probably fine. We just  
17 need him somehow evaluated.  
18 Clerk Rockwell: But it is a competence (unintelligible), right?  
19 ADA Smith: Yeah, so is that what they're asking in that section?  
20 Clerk Rockwell: It just says to have the judge fill them out, so I'm just  
21 whiting that out. I think, yeah.  
22 ADA Smith: (Unintelligible) is fine. (Unintelligible).  
23 Judge Pebler: For some reason, it's not letting us call out.  
24 Clerk Rockwell: Maybe we can call it a day.  
25 Judge Pebler: [REDACTED]. All right. Let's see if I call home. Yeah,

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1 it's calling home.

2 ADA Smith: I don't think that's a good number for him. Do you  
3 want to call my office and I'll get the number?

4 Judge Pebler: The number 3270 is not the right number?

5 ADA Smith: 746 it starts with?

6 Judge Pebler: 746.

7 ADA Smith: No, we have--

8 Judge Pebler: --I'll try his cell-- his cell phone.

9 ADA Smith: Okay. Yeah.

10 Clerk Rockwell: Who are you calling?

11 Judge Pebler: Randy Scharf.

12 ADA Smith: Randy Scharf.

13 Judge Pebler: 1--

14 Clerk Rockwell: --What do I have?

15 Judge Pebler: Whoops. [REDACTED]. Now it's ringing  
16 through.

17 Clerk Rockwell: I have 5197.

18 ADA Smith: That sounds better, not 746. Yeah, that's an old one.

19 Judge Pebler: Might be in the courtroom and he won't pick up.

20 Clerk Rockwell: (Unintelligible) through to the secretary?

21 ADA Smith: No secretary.

22 Judge Pebler: (On telephone): Hi, Randy. Judge Pebler, Town of  
23 Rox-- Hi, Randy, Judge Pebler, Town of Roxbury.  
24 I'm here with Shawn Smith. We're going to put out-  
25 - Chad Ostrander's bail and put an arrest warrant out

1 for him, so-- because of what happened in Delhi  
2 Court and I just want to let you know what we're  
3 doing on our end. So if you have any problem, give  
4 us a call. Okay? Take care. Bye. At least it's on  
5 his ans-- his message machine that we've contact--  
6 tried to contact him. All right. So--  
7 ADA Smith: --Yeah, he knows that the guy should have a warrant,  
8 but he obviously hasn't had to pay for him but he  
9 told Judge Gumo off the record that he put a warrant  
10 out for him, because--  
11 Judge Pebler: --And Gumo called-- Well, sent this. It was on my  
12 desk here. (Phone rings). Roxbury Court, Judge  
13 Pebler speaking. Hey, Dave, how you doing? Oh, I  
14 left a message.  
15 ADA Smith: I don't know if we-- Can we do it for-- So, is that  
16 the only way you've asked to put a warrant out on  
17 him?  
18 Judge Pebler: (On telephone): Okay. So, he's coming back in on  
19 September 5<sup>th</sup>, I think it is.  
20 ADA Smith: Because I don't know if he has technically missed  
21 his appearance yet.  
22 Clerk Rockwell: True.  
23 Judge Pebler: (On telephone): Is that bad?  
24 Clerk Rockwell: It could be (unintelligible).  
25 ADA Smith: (Unintelligible).

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1 Judge Pebler: (On telephone): Yeah.  
2 ADA Smith: (Unintelligible).  
3 Judge Pebler: (On telephone): I think-- I think I wouldn't hold a  
4 grudge.  
5 Clerk Rockwell: And every other law officer in town.  
6 Judge Pebler: (On telephone): Yeah.  
7 ADA Smith: Nice. Well, at least he can't fake it. You said he's  
8 around? Who said Ostrander's around town?  
9 Unknown Male: (Unintelligible).  
10 ADA Smith: It's what we're working on. (Unintelligible)?  
11 Unknown Male: Mm-hmm. (Unintelligible).  
12 ADA Smith: Yes.  
13 Unknown Male: (Unintelligible).  
14 Judge Pebler: (On telephone): We already did that with Mr.  
15 Rongo, we don't want to do it again.  
16 Unknown Male: (Unintelligible).  
17 ADA Smith: (Unintelligible).  
18 Judge Pebler: (On telephone): Who? Rongo?  
19 ADA Smith: (Unintelligible).  
20 Judge Pebler: (On telephone): No, he's in Stamford.  
21 ADA Smith: Must be (unintelligible).  
22 Judge Pebler: (On telephone): Yep. He's in trailer number 20.  
23 He's keeping his nose clean. He comes to Roxbury a  
24 lot and he goes, "Hi, Judge." You know how he is.  
25 You know, screams across the, you know, the street.

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1                                    You know, that type of stuff, so I be nice so, you  
2                                    know.  
3    ADA Smith:                He wasn't always (unintelligible). He  
4                                    (unintelligible).  
5    Judge Pebler:            (On telephone): Yeah. Yep. Oh, she's always here.  
6    ADA Smith:                (Unintelligible).  
7    Unknown Male:            (Unintelligible).  
8    ADA Smith:                (Unintelligible). It's supposed to be (unintelligible)  
9                                    the investigation set (unintelligible) probation.  
10   Judge Pebler:            (On telephone): Okay. Sandy, can you talk to Mr.  
11                                    Gordon or are you too busy?  
12   Clerk Rockwell:          No, I can talk to him.  
13   Judge Pebler:            (On telephone): She'll talk to you. It's about a  
14                                    Middletown case that's--  
15   ADA Smith:                --(Unintelligible).  
16   Clerk Rockwell:          (Unintelligible).  
17   Judge Pebler:            (On telephone): Because she's trying to revoke a  
18                                    bail on a client-- on a defendant now and put an  
19                                    arrest warrant out for Chad Ostrander.  
20   Unknown Male:            (Unintelligible).  
21   Judge Pebler:            (On telephone): That rings a bell. Oh, God. Yes.  
22                                    I'm-- I mean, this guy is certifiable. I mean, and  
23                                    well, John Hubbard dropped all five criminal  
24                                    charge-- criminal (unintelligible) charge-- contempt  
25                                    charges back on the other cases. Well, he comes to



1 court and he says, "I'm not doing anything. I'm not  
2 doing this. I'm not--" And yet the defendants are in  
3 the courtroom saying, "He comes out on the porch  
4 when I'm walking over to the school, he follows me  
5 and my daughter going to school and if we go out for  
6 a walk at night, he follows behind us." Right.  
7 That's the charge that he got nailed with. Now, it's  
8 in contempt. We had the hearing this-- Well, it  
9 should be, but there is still not. I don't care. I--  
10 Again, I only do what's on my plate and-- Well,  
11 anyway, the other five charges were dropped, so if  
12 they're dropped, he starts from scratch again.

13 Unknown Male: (Unintelligible).

14 ADA Smith: Right.

15 Unknown Male: (Unintelligible).

16 ADA Smith: He got two years. I think he did a year there and  
17 here. (Unintelligible).

18 Unknown Male: (Unintelligible).

19 Judge Pebler: (On telephone): Right. And I-- My thing was I sent  
20 him for a mental evaluation and the family takes him  
21 to the family psychiatrist and that he's just not all--  
22 not normal. Well, what does that tell me? I don't  
23 have no paperwork from the family psychiatrist. I  
24 ordered him to do that and they took it on their own  
25 account that that order was null and void and they

1 can take him to their own family psychiatrist. This  
2 has been going-- Everything they tell me-- Every  
3 time I tell them something, they turn around and say,  
4 "Well, you didn't tell me this," or whatever. Yeah,  
5 and now they've got this girl from Albany coming  
6 down here. Her name is Ms. Strong-- Storm-- Ms.  
7 Storm and so, she's representing him. I hope she  
8 gets paid by the family, but that's ... He was, and  
9 then he-- He was doing everything by email, which  
10 is not legal and he doesn't have an office, doesn't  
11 have a letterhead and, you know, one of my-- He  
12 never sent me a letter that he represents his client, he  
13 just shows up when he wants to show up in court.  
14 He's almost as-- almost as bad as Mr. Gordon is, but  
15 not-- No, I'm only kidding you. [REDACTED]  
16 He's out of [REDACTED] County. He works in social  
17 services out of [REDACTED] County. Yeah, and he lost  
18 his license for tax evasion and then-- And then he  
19 got it back and now, you know, anyway, so at least I  
20 don't have to deal with him anymore. I took him off  
21 the list. I mean, I want paperwork served in front of  
22 me, I don't want you to call at 4:00 at night and say,  
23 "I need an adjournment because I don't feel good,"  
24 and then the court clerk-- court time is at 7:00, and I  
25 go, "Huh?" But that's neither here nor there. But

1 anyway, I'm waiting for Sammy to get cleared up  
2 here so she can talk to you.  
3 Clerk Rockwell: I don't know if we're going to be happy with that,  
4 but I've copied it.  
5 Judge Pebler: She-- He wants to bug you.  
6 Clerk Rockwell: He bugs me all right.  
7 Judge Pebler: (On telephone): Hang on. She's going to pick up.  
8 Hang on.  
9 Clerk Rockwell: Then the walls start tumbling down.  
10 ADA Smith: Are we all set then, Judge?  
11 Judge Pebler: Bench warrant. All right. These are the charges  
12 before the court, those 16-- 15 charges. Next court  
13 date 6/8/18, at 12:00 AM. Something is wrong with  
14 this. Oh, there's-- next court date-- That doesn't  
15 make sense. 6/8 in Judge Gumo's court?  
16 ADA Smith: That might have been when he pled-- No, it  
17 wouldn't have been. 7/8, maybe? I don't know what  
18 6/8 is.  
19 Judge Pebler: This is the arrest warrant, July 23<sup>rd</sup>--  
20 ADA Smith: --Well, can you just give him a court date like next  
21 Wednesday or something and (unintelligible)--  
22 Judge Pebler: Absolutely. I-- But they're going to pick him up.  
23 He's going to go pick him up, because--  
24 Clerk Rockwell: (On telephone): --He needs to be remanded on all  
25 charges--

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1	ADA Smith:	--He needs to be in jail.
2	Clerk Rockwell:	--which he will be.
3	Judge Pebler:	So, the \$2,500 stays the same, or should I raise it
4		back up to \$5,000?
5	ADA Smith;	If you catch him, I think-- I'll ask about \$20,000 or
6		something, because he's not-- he's a flight risk.
7		Now he's got two-- He already proved that he
8		(unintelligible)--
9	Clerk Rockwell:	--(Unintelligible).
10	Judge Pebler:	So, on the record, Mr. Smith's recommendation for
11		if we get Mr. Ostrander picked up on the bench
12		warrant that bail is going to be set at \$20,000 cash,
13		\$40,000 surety bond.
14	ADA Smith:	(Unintelligible) because he has-- He violated the
15		plea deal in Delhi. He's got two prior felony
16		convictions. He's got multiple misdemeanor
17		convictions and, you know, it was an expressed
18		condition that he not bail himself out anyways, so I
19		would say (unintelligible)--
20	Judge Pebler:	--You look at that.
21	Clerk Rockwell:	Yes, sir.
22	Unknown Male:	Do you have-- Do you have a bail on him?
23	Judge Pebler:	I have no bail on him.
24	Unknown Male:	No bail.
25	Judge Pebler:	No, it's \$20,000.

*(People v Chad Ostrander)*

1 Unknown Male: Huh?

2 Judge Pebler: It's going to be \$20,000, but he's not supposed to  
3 know that until he comes to court.

4 Unknown Male: Well, okay. Well, (unintelligible)--

5 ADA Smith: Can I put-- Can I change it a little bit, or no? Is that  
6 okay, just because it's-- And I'll see what you think  
7 about it.

8 Unknown Male: (Unintelligible).

9 Clerk Rockwell: (On telephone): I don't know if he's ever had  
10 another (unintelligible) or not--

11 Judge Pebler: --What?

12 Unknown Male: (Unintelligible) county that he's ever worked for?

13 Judge Pebler: Oh, yeah. They'll go up to sheriffs and to the state  
14 police.

15 Unknown Male: (Unintelligible). He's going to run like he did the  
16 last time.

17 Judge Pebler: Let's see what happens. It's a shame Gumo did what  
18 he did, but that's nothing I can do about that.

19 ADA Smith: Yeah, we should have made him come here and  
20 plead first and then let Gumo ...

21 Judge Pebler: But see, he's not like the normal people. You could  
22 do that with normal people.

23 ADA Smith: Right.

24 Judge Pebler: He's been through the system so much, he knows  
25 how to do it. All right. This is Delhi.

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1 Clerk Rockwell: (On telephone): (Unintelligible). He's been a very  
2 naughty boy.  
3 Judge Pebler: All right. So, this all goes in the file from Judge  
4 Gumo. You want it corrected, give it to her.  
5 ADA Smith: Is that okay? Just because then we don't have to  
6 say--  
7 Clerk Rockwell: (On telephone): --I know.  
8 ADA Smith: --because Judge Gumo said it was the agreement  
9 with you. I said, "Judge, we put the agreement on  
10 the record here in your court," so--  
11 Judge Pebler: --Yeah.  
12 ADA Smith: --then it (unintelligible).  
13 Clerk Rockwell: (On telephone): All right. I'll go (unintelligible)  
14 Tuesday?  
15 Judge Pebler: No, if it's not right, Randy will fight it and--  
16 ADA Smith: No, Randy's not going to fight it, he--  
17 Judge Pebler: --No, I'm just saying, if it was.  
18 ADA Smith: Right.  
19 Judge Pebler: But he's good. He knows what the hell goes on.  
20 Unknown Male: Who's he talking about?  
21 ADA Smith: Randy Scharf.  
22 Judge Pebler: From Delhi, or Cooperstown, he's from.  
23 ADA Smith: Yeah. Originally, yeah.  
24 Judge Pebler: Yep. Oh, well.  
25 ADA Smith: He-- I talked to him and he said, "Look, I worked

*(People v Chad Ostrander)*

1 him out a really good deal, which it was a good deal.  
2 Judge Pebler: Right.  
3 ADA Smith: Six months for all of that stuff, he said, and then the  
4 guy went and violated it, so he (unintelligible)--  
5 Judge Pebler: --Well, look at what happened with the young man  
6 this morning that--  
7 Clerk Rockwell: (On telephone): --That's good.  
8 Judge Pebler: --you know, with his case? That was ACD'd, so  
9 that's a good deal, so.  
10 ADA Smith: It'd be like if he went and violated it immediately,  
11 then it's not Rikard's fault.  
12 Judge Pebler: Yeah. Oh, well.  
13 ADA Smith: I just didn't want to put the agreement with Judge  
14 Gumo (unintelligible)--  
15 Clerk Rockwell: (On telephone): --I had no idea what to write, so  
16 that's all good with me because I copied  
17 (unintelligible)--  
18 ADA Smith: --Something (unintelligible).  
19 Clerk Rockwell: (On telephone): And I used to do the  
20 (unintelligible).  
21 Judge Pebler: See, and he has a conditional discharge down there  
22 in Delhi. Gumo had to get-- had to give him a  
23 conditional discharge to let him-- let him out.  
24 ADA Smith: I don't think he did-- See, what happened is it was  
25 all-- Should we put on the record, Gumo said it's not

1 clear on the recording, it didn't pick it up, but  
2 basically, we wanted the time and they were okay  
3 with it on your charges here, because there was a  
4 police officer that almost got ran over and stuff.  
5 Judge Pebler: Right.  
6 ADA Smith: So, we said, "You know what? Let him have the  
7 time in Roxbury, even though we've got a strong  
8 case in Delhi." So, I don't even know if Gum-- Oh,  
9 do you have-- Did he get a conditional discharge?  
10 Judge Pebler: No. That's what I was looking up and it doesn't--  
11 ADA Smith: --I don't even think he gave him--  
12 Judge Pebler: --It's not printed out.  
13 ADA Smith: But it doesn't even say on here, "Defendant  
14 contingent upon pleading guilty to misdemeanor--"  
15 Judge Pebler: --"Charged in Town of Roxbury with a six-month  
16 sent-- with a six-month sentence." See, that's what I  
17 said to you this morning. How did this come about  
18 with an agreement of me without being notified? I  
19 mean, that's the thing.  
20 ADA Smith: Well, he-- the idea is he was supposed to sit in jail--  
21 Judge Pebler: --Appear.  
22 ADA Smith: --come to your court, appear and plead and get the  
23 sentence, but now it should go up from six months.  
24 Judge Pebler: After having all of these charges here, he's got to get  
25 something more.



*(People v Chad Ostrander)*

1   ADA Smith:           Right. Yeah. So, that's better, Judge, if you say you  
2                           won't accept six months, then I'll send them a letter  
3                           and say, "Hey, the judge in Roxbury won't even go  
4                           along with it. It's got to be a year or whatever."  
5   Judge Pebler:        I-- On the record, this is a criminal-- career  
6                           criminal. What's he going to learn? He's already  
7                           served like a month in jail.  
8   ADA Smith:           Thirty days, yeah.  
9   Judge Pebler:        Yeah. So, he's going to only serve another two  
10                          months, technically, he's going to-- And a six-  
11                          month-- six month, you serve four months. Yeah, I  
12                          won't go along with it.  
13   ADA Smith:           Good. Then I'll send a letter to Judge Gumo--  
14   Judge Pebler:        --I have balls.  
15   ADA Smith:           --(unintelligible)--  
16   Judge Pebler:        --I have enough to say that, so ...  
17   Unknown Female:     (Unintelligible).  
18   Judge Pebler:        All right. So, I've got to make sure I put a Post-it  
19                          note here that's \$20,000. I'll get a call from Tammy  
20                          that she's going to bail him out.  
21   ADA Smith:           Do you think they're going to try to make \$20,000 or  
22                          it's--  
23   Judge Pebler:        --There's no way. So, if she-- if the aunt put up the  
24                          \$2,500 bail down there, what happens to that bail  
25                          money?

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1     ADA Smith:            I think it's your bail, right? Aren't you holding the  
2                            bail? I don't think he could re-- I think once he gets  
3                            in, if he stays in, you could send it back to him.  
4     Unknown Male:       (Unintelligible).  
5     ADA Smith:           Yes. Didn't they post it with you? Gumo said they  
6                            posted it with you.  
7     Clerk Rockwell:      This.  
8     ADA Smith:           Oh, okay. (Unintelligible).  
9     Judge Pebler:        How come I wasn't notified?  
10    Clerk Rockwell:      Do you have his folder? There you go. There's your  
11                           sign.  
12    Judge Pebler:        The judge doesn't know anything like this unless he  
13                           does this, so 7/17 he posted bail, he did the warrant.  
14                           Okay. That way.  
15    ADA Smith:           I guess we should have maybe called you at your  
16                           house that night and said, "Hey, we've got an  
17                           agreement to revoke bail," and we didn't.  
18    Judge Pebler:        All right. So, revoke the bail, give her back her  
19                           \$2,500 cash and go up to \$20,000. Okay. Brenda  
20                           Vroman, Schoharie, New York. Okay. No problem.  
21    ADA Smith:           Does that make sense to you?  
22    Judge Pebler:        Does it make sense to me? It makes all the sense to  
23                           me.  
24    ADA Smith:           Hold up. Sandy, listen.  
25    Clerk Rockwell:      To revoke, you're going to revoke his bail of \$2,500.

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1 Judge Pebler: And put \$20,000 cash or--  
2 ADA Smith: --Well, when they bring him in for an arraignment on  
3 the bench warrant. That would be my  
4 recommendation. But the lady that posted it could  
5 be entitled to get her money back, I think because  
6 it's--  
7 Judge Pebler: --Unless she wants to come up with another \$17,500.  
8 ADA Smith: I just don't want people to say, "Shawn, why did you  
9 put (unintelligible)?"  
10 Clerk Rockwell: This says 6/28.  
11 ADA Smith: Yeah, we were wondering about that (unintelligible).  
12 Clerk Rockwell: I can explain that (unintelligible).  
13 ADA Smith: If you want to put a court date for like next  
14 Wednesday, it could be all right.  
15 Judge Pebler: You know something? I don't want to put a court  
16 date on, because the cops--  
17 Clerk Rockwell: --(Unintelligent) blank.  
18 Judge Pebler: Pardon me?  
19 Clerk Rockwell: I'm going to just take it out in white out.  
20 Judge Pebler: Right, because what will happen, the cops are going  
21 to wait until the 25<sup>th</sup> to bring him in--  
22 ADA Smith: --Oh, okay.  
23 Judge Pebler: And then he could be gone, because word is going to  
24 travel like wildfire.  
25 ADA Smith: Right.

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1 Judge Pebler: That there's an outstanding, you know, there's an  
2 arrest-- bench warrant out for him, so--  
3 Clerk Rockwell: --That one is on two pages and I worked very hard to  
4 get it on one.  
5 Judge Pebler: All of this for (unintelligible) for Judge Gumo  
6 wouldn't do it.  
7 ADA Smith: Well, I'm going to send you a letter when I get back  
8 to the office saying, "Judge, we've got to void his  
9 plea because Roxbury won't accept six-month  
10 sentence anyway."  
11 Judge Pebler: Maybe I'll call Judge Gumo this morning and say--  
12 tell him--  
13 ADA Smith: --Even if you want to call him now, I told him this--  
14 He may-- He thinks I'm upset that he rescinded his  
15 warrant, but that's, you know-- He said, "Well,  
16 Roxbury is really the one where he's got to show up  
17 on September 5<sup>th</sup>." I said, "But Judge, he's supposed  
18 to be in jail waiting until September 5<sup>th</sup> not--"  
19 Judge Pebler: That's right. All right. I thought I took him off my  
20 assigned counsel list. Oh, he (unintelligible) his  
21 letterhead right here. All right. Judge Gumo. [REDACTED]-  
22 [REDACTED].  
23 Clerk Rockwell: Oh, God. (Unintelligible).  
24 ADA Smith: (Unintelligible)--  
25 Judge Pebler: (On telephone): Hi, Judge Gumo. Judge Pebler.

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1	Clerk Rockwell:	(Unintelligible).
2	Judge Pebler:	(On telephone): You're giving me a headache. I can
3		imagine. Are you-- By the way, are you busy right
4		now? Okay. I'm just telling you what we're doing
5		on my end. I'm not accepting the plea or bargain
6		that you-- the DA made with you on the six months
7		in Roxbury Court, so I'm going for a year. Right.
8		Right. Right. Right.
9	Clerk Rockwell:	I'm tired of the rain.
10	Judge Pebler:	(On telephone): Right.
11	Unknown Male:	(Unintelligible). I see (unintelligible).
12	Clerk Rockwell:	No. (Unintelligible).
13	Unknown Male:	(Unintelligible).
14	Judge Pebler:	(On telephone): Right. With time served, correct?
15	Unknown Male:	(Unintelligible).
16	Judge Pebler:	(On telephone): Right.
17	Clerk Rockwell:	Kenny took the four-wheeler so we could go up our
18		backyard up into the field. He didn't even make it to
19		the top. He was (unintelligible).
20	Unknown Male:	(Unintelligible).
21	Judge Pebler:	(On telephone): Right.
22	Unknown Male:	(Unintelligible).
23	Clerk Rockwell:	That was wild. It came out of nowhere though.
24	Unknown Male:	(Unintelligible).
25	Clerk Rockwell:	I was in Clifton Park last Friday, it was terrible in

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1 Clifton Park.  
2 Judge Pebler: (On telephone): Nothing on it. Yeah.  
3 Unknown Male: Oh, okay. Yeah.  
4 Judge Pebler: (On telephone): Oh, yeah. Yeah.  
5 Clerk Rockwell: And I (unintelligible).  
6 Unknown Male: (Unintelligible).  
7 Clerk Rockwell: (Unintelligible). I need to work some more. You  
8 need to work more too, I bet.  
9 Unknown Male: Yeah.  
10 Judge Pebler: (On telephone): Right. Well, did-- You never got  
11 any paperwork from the district attorney's office or  
12 from Mr. Scharf what the plea bargain was? I  
13 thought you said-- Maybe I've got it here. Oh, yeah.  
14 Right here. "Defendant's offer contingent on  
15 pleading guilty to a misdemeanor in Roxbury Court,  
16 six-month sentence." Nope. Nope. I just found that  
17 out this morning. Yeah. Right. All right. So, what  
18 I'm-- What I'm doing in my head, I'm putting a  
19 bench warrant out for Chad, revoking his bail.  
20 Going to give the bail back to his aunt who posted  
21 bail and we're going to sent-- put bail, if we get him  
22 in here on this, I'm going to put \$20,000 bail on him.  
23 Chad Os-- Chad Ostrander. Nope.

**(Court audio skips from 11:15:59 to 11:21:01.)**

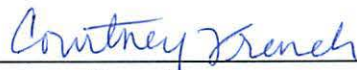
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CERTIFICATION

I, COURTNEY FRENCH, Junior 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: May 28, 2019

  
\_\_\_\_\_  
Courtney French

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

**Transcript of Proceedings held on August 15, 2018,  
(8:46:13 AM to 8:55:56 AM)  
(9:16:15 AM to 9:17:02 AM)  
(9:18:37 AM to 10:07:35 AM)  
( 11 :02:45 AM to 11 :03 :34 AM)  
before Hon. Wayne R. Pebler, a Justice of the  
Roxbury Town Court, Delaware County**

**EXHIBIT C**



1                                   **(August 15, 2018 from 8:46:13 AM to 8:55:56))**

2     Judge Pebler:               Good morning.

3     Clerk Rockwell:           Nothing going on here.

4     Judge Pebler:               I'm going home.

5     Clerk Rockwell:           I can?

6     Judge Pebler:               You can go home. You've got-- You have more  
7                                   things pressing, let's go home, right? I don't think  
8                                   my one client is going to show up, Chad  
9                                   Ostrander's attorney adjourned, which you  
10                                  already know about, so ...

11    Clerk Rockwell:           Well, I do, but I don't. I did know that maybe you  
12                                  had made it a later time or something, so ...

13    Judge Pebler:               Well, they called again. Why is it that when I call  
14                                  them, they don't-- they don't recognize that I've  
15                                  called them? When I say, "them," defense  
16                                  attorneys. Right? August 1<sup>st</sup>, he was supposed to  
17                                  be here. Shawn Smith said in open court that he--  
18                                  get faxes back and forth or emailed, whatever, that  
19                                  he is supposed to be here for sentencing on the  
20                                  Delhi case, right? They didn't show up. I called  
21                                  Scharf up on the phone and that's how I'm trying  
22                                  to prove-- I called Diane, asked her for the  
23                                  records for August 1<sup>st</sup> on the phone call. He never  
24                                  called me back. I'm trying to keep him in the loop  
25                                  as of August 1<sup>st</sup>. Well, if you read the law-- I'm

1 getting ahead of myself. He didn't show up, so we  
2 put a bench warrant out for Chad, right? We're  
3 going to revoke his bail. Well, that was  
4 Wednesday. By Friday, I think it was, I got phone  
5 calls at home that he was going to file charges  
6 against me through the system, right? And so, it  
7 got my-- me all worried. Then, Sunday, Shawn  
8 Smith called me and said, "Yep. He's going to file  
9 charges against Judge Gumo," all this other crap.  
10 Clerk Rockwell: Nothing is going to happen to you.  
11 (Unintelligible).  
12 Judge Pebler: I know. I understand that, but don't threaten me.  
13 You know? This is the bad part of an attorney  
14 when they make a threat. Sorry. I don't know  
15 why my mouth is watering so much this morning.  
16 Who knows why. But, so that was Aug-- end of  
17 August 1<sup>st</sup> we did that and I rescinded it last  
18 Wednesday when you were here on the 8<sup>th</sup>. We  
19 just got the paperwork back then, it's been  
20 rescinded, da-da-da. Now, he sends you a, I  
21 assume a fax that he's asking for an  
22 adjournment. What happened to calling me? He  
23 called me at home to say he was going to file  
24 charges against me for putting the bench warrant  
25 out there, that I wasn't following procedure, and I

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1		look up the procedure and I did it right with
2		Shawn Smith.
3	Clerk Rockwell:	You did everything right.
4	Judge Pebler:	Whenever the court finds out information that
5		somebody is violating something, it's my right to
6		open up the case and--
7	Clerk Rockwell:	Not only right, responsibility.
8	Judge Pebler:	Right. To get this corrected. Well, again, I'm
9		sitting at home, nothing in front of me and, you
10		know, you start running scared. So, I said I'd err
11		on the side of the defendant. No harm done, per
12		se, except he's running around us dealing more
13		drugs, and that's on the record if that's whatever
14		it's supposed to be, if it would be pre-knowledge
15		or something like that, and we set up for today to
16		have, I assume, now to start from scratch, because
17		the three cases in Delhi is now going to be held as
18		felonies and they are going to refile those charge--
19		or have refiled those charges. So now, whatever
20		they decide in Delhi, no longer pertains to my
21		court, even though I was never put in the loop.
22	Clerk Rockwell:	There's something very wrong with that.
23	Judge Pebler:	Both parties are wrong.
24	Clerk Rockwell:	Yeah.
25	Judge Pebler:	You don't say, "I'm going to plead guilty to

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1		Roxbury," without the judge being involved in
2		anything like this.
3	Clerk Rockwell:	That's right. They do that kind of thing all the
4		time and they shouldn't be allowed to.
5	Judge Pebler:	It's stress-- It's, you know-- Whatever.
6	Clerk Rockwell:	They shouldn't be allowed to-- There was a lot of
7		things that went wrong with this, but I don't see
8		anything that you did that was wrong.
9	Judge Pebler:	I mean, I look at this folder. Look how thick this
10		folder has gotten and we haven't done anything.
11	Clerk Rockwell:	Did you read his report?
12	Judge Pebler:	Where? Was it in here?
13	Clerk Rockwell:	It is now. I thought-- I thought the way I had
14		arranged things in there, you'd see it. I had it on
15		top.
16	Judge Pebler:	Hang on. I haven't really-- All I did--
17	Clerk Rockwell:	--It's on the inside. Inside, so nobody would see
18		it, but right (unintelligible)--
19	Judge Pebler:	--Okay. Okay, I see the probation. Yep, I see it
20		right there. See, I wasn't paying attention because
21		I was doing this other stuff here, so--
22	Clerk Rockwell:	--Oh.
23	Judge Pebler:	--And I grabbed your paperwork off your desk and
24		I--
25	Clerk Rockwell:	--Well, you know, I thought you had put that there.

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1		Who put that there?
2	Judge Pebler:	Put what there? What?
3	Clerk Rockwell:	The paperwork that was on my desk, the faxes and
4		such.
5	Judge Pebler:	Not me. I haven't been here since last
6		Wednesday.
7	Clerk Rockwell:	Maybe it was Heather. I'm sorry. I thought you
8		knew all that was going on and you were just
9		alerting me by putting it on my desk.
10	Judge Pebler:	I knew when I called probation that they were
11		going to send it to you through--
12	Clerk Rockwell:	--I mean with Scharf.
13	Judge Pebler:	With Scharf? I had no idea of nothing until I got a
14		phone call from Smith last night ask-- telling me--
15	Clerk Rockwell:	--I should have called you. I really thought it
16		was--
17	Judge Pebler:	--It's not your-- I said to Shawn Smith, "When is
18		it these attorneys and you going to get your act
19		together? I only can act as a judge on Wednesday
20		morning or if I'm in the courtroom physically."
21	Clerk Rockwell:	Right.
22	Judge Pebler:	This is not on, or it's recording-- Continue to
23		record (unintelligible)--
24	Clerk Rockwell:	--We must have hit it by mistake.
25	Judge Pebler:	All right. Now it's recording. Sorry, computer. I

1 must have done something. We're discussing the  
2 *Chad Ostrander* case. I tried-- I said to Shawn, "I  
3 can't make decisions over a phone. That's not  
4 legal."  
5 Clerk Rockwell: Right. It's got to be on the record.  
6 Judge Pebler: I said, "Bring me into the court or call me up and  
7 say, 'Judge, I want you in the courtroom at 10:00  
8 tomorrow morning.'"  
9 Clerk Rockwell: You are absolutely right.  
10 Judge Pebler: And then--  
11 Clerk Rockwell: --That's where this one had a problem.  
12 Judge Pebler: And that's where Scharf is doing the same crap.  
13 Clerk Rockwell: Well, you could make it. There's something that  
14 you-- Legal documents should not be faxed.  
15 Judge Pebler: Nothing should be faxed without somebody's seal  
16 to it. Now, the sheriff's department sees that it's  
17 been sealed because it leaves an imprint.  
18 Clerk Rockwell: Right.  
19 Judge Pebler: So, they know that somebody is coming from this  
20 courtroom down to their jail to be incarcerated for  
21 a certain amount-- Whatever.  
22 Clerk Rockwell: Right.  
23 Judge Pebler: He does-- They all do it. Why couldn't-- Why  
24 couldn't you just have the paperwork here?  
25 Clerk Rockwell: And there should be a timeframe. If you're going

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1		to do that, it's got to be a week before so you can
2		see it.
3	Judge Pebler:	But see--
4	Clerk Rockwell:	--Judge Nicholson wouldn't have allowed-- He
5		got-- He got right angry with people when they
6		adjourned. He wanted a reason and he wanted
7		proof and they'd better have it.
8	Judge Pebler:	Well, he did have proof that he's representing a
9		sexual--
10	Clerk Rockwell:	--(Unintelligible). But he should have done it
11		before that. Why didn't he do it Wednesday when
12		you called him?
13	Judge Pebler:	Because he wasn't assigned until Saturday
14		morning.
15	Clerk Rockwell:	No, no, no. This past Wednesday when you
16		communicated with him and did make the
17		comment to me, "He's going to find a reason not
18		to be here."
19	Judge Pebler:	Well, oh, yeah.
20	Clerk Rockwell:	Why didn't he tell you that last week?
21	Judge Pebler:	Because he didn't know that he was going to
22		represent the sexual harassment guy in Middlefield
23		until Friday afternoon or Saturday morning. I
24		don't know when it was.
25	Clerk Rockwell:	All right.

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1	Judge Pebler:	I mean, I-- Which is-- Which is worse, Chad
2		Ostrander's criminal case before me--
3	Clerk Rockwell:	--He's got some pretty serious charges.
4	Judge Pebler:	--Yeah, or there's this guy in Middlefield, so--
5	Clerk Rockwell:	--Which is serious, also.
6	Judge Pebler:	I go-- I said to Shawn, "All right, we'll adjourn it
7		to--"
8	Clerk Rockwell:	--And he couldn't say, "I'm sorry, I'm already
9		committed in Roxbury. Let somebody else handle
10		it."
11	Judge Pebler:	But you know something, they all want that--
12	Clerk Rockwell:	--I understand that, but they're-- That's the decent
13		protocol and then this won't happen-- this won't
14		happen to you.
15	Judge Pebler:	That's right. I mean, and then all of a sudden, it
16		gets turned around like it's my fault or Heather's
17		fault for adjourning cases for so freaking long.
18	Clerk Rockwell:	Yeah, and this is why.
19	Judge Pebler:	Yeah.
20	Clerk Rockwell:	And the fax machine shouldn't be acceptable.
21	Judge Pebler:	It's not--
22	Clerk Rockwell:	If they don't speak to you directly, it shouldn't
23		up-- it shouldn't be.
24	Judge Pebler:	All right, then we have to get something in the
25		system.



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1	Clerk Rockwell:	I-- If I--
2	Judge Pebler:	--I know you put it in there.
3	Clerk Rockwell:	If I get an email, I will say in the email, "I will
4		give this to Judge Pebler and will act on this on
5		Wednesday."
6	Judge Pebler:	Yep.
7	Clerk Rockwell:	It's what I do-- It's what I do in Middletown.
8	Judge Pebler:	Right. But what I'm getting at is it should be put
9		on the thing that there'll be no-- we will not
10		accept faxes as an adjournment. You know?
11	Clerk Rockwell:	Right. People have to know about it.
12	Judge Pebler:	And I already discussed this with the resource
13		center and they-- the resource center said to me,
14		"Judge, you're the operator of your courtroom.
15		You bring them in any way you want to bring
16		those attorneys in and I-- (unintelligible). I did it
17		to Guthreson (phonetic). He came in on a gurney.
18	Clerk Rockwell:	Mm-hmm.
19	Judge Pebler:	He was a guy from Cobleskill who was a
20		Filipino-- He was on an assigned counsel and we
21		did a lot of assigned counsel--
22	Clerk Rockwell:	--Oh, I remember. Yes, yes, yes.
23	Judge Pebler:	He fell off a step ladder and broke his--
24	Clerk Rockwell:	--Yes. Yes.
25	Judge Pebler:	--both his legs.

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1 Clerk Rockwell: I remember.

2 Judge Pebler: And he had a chauffeur pushing him on a gurney,  
3 whoever brought him in here, he liked, and they  
4 tipped the gurney up. I'm not-- I saw he was  
5 laying there, right? "Are you represented?" He  
6 goes, "Your Honor, I didn't know you were so  
7 hard to get me here." Again--

8 Clerk Rockwell: --(Unintelligible)?

9 Judge Pebler: Look at (Unintelligible). I don't know if these  
10 guys are lying to me. Do you know how many  
11 times you get lied to?

12 Clerk Rockwell: There are a lot of games. I know. I know.

13 Judge Pebler: I'm sorry. I didn't want to raise my voice. I keep  
14 doing that.

15 Clerk Rockwell: Well, I-- No, that's fine, and you have every right  
16 to be upset about this whole thing. This whole  
17 thing has been wrong--

18 Judge Pebler: --It's-- I-- Chad, again-- Okay. I don't-- I don't  
19 like rehashing crap, so (unintelligible).

20 Clerk Rockwell: This whole thing has been wrong.

21 **(August 15, 2018 from 9:16:15 AM to 9:17:02 AM)**

22 Judge Pebler: Well, this is-- I pulled off the Criminal Procedure  
23 Law, Section 530.60, that Scharf kept reaming me  
24 out with, right?

25 Clerk Rockwell: Yeah.

1 Judge Pebler: And I'm going to hand it to him and say, "Explain  
2 to me where you think I did wrong." Because, on  
3 all the section, it says here, "Whenever in the  
4 course of a criminal action or proceeding, a  
5 defendant is at liberty as the result of order  
6 recognized or bail." I can review it and change my  
7 mind is what it says.

8 Clerk Rockwell: And that is what you did.

9 Judge Pebler: That's what I did, so that stays with this. So many  
10 here are so pitiful. What a waste of ...

11 **(August 15, 2018 from 9:18:37 AM to 10:07:35 AM)**

12 Judge Pebler: All right. Randy sent this on the 9<sup>th</sup>-- on the 9<sup>th</sup>.  
13 That was--

14 Clerk Rockwell: --(Unintelligible).

15 Judge Pebler: --Yeah. He didn't even-- Sandy, he didn't even  
16 get your letter yet when it was sent out last  
17 Wednesday.

18 Clerk Rockwell: He did.

19 Judge Pebler: But he sent this at 2:05 PM on the 9<sup>th</sup>, that  
20 Thursday.

21 Clerk Rockwell: He had my-- He had my letter, because he  
22 responded to it by email.

23 Judge Pebler: Oh, I get what you're saying, but he did send a  
24 Middlefield letter when he was supposed to  
25 appear.

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1	Clerk Rockwell:	That's probably why, because I said I was the
2		court clerk doing what I'm told, so--
3	Judge Pebler:	--Yeah, but here's the thing, the letter from
4		Middlefield, it states right on here, "Next court
5		date is September 5 <sup>th</sup> at 9:00 AM." Well, that's
6		when Randy is supposed to be here.
7	Clerk Rockwell:	What about today? You said today.
8	Judge Pebler:	That's right.
9	Clerk Rockwell:	He's (unintelligible).
10	Judge Pebler:	All right. Let me call Middlefield.
11	Clerk Rockwell:	He's losing it. I wonder if something is medically
12		wrong with him.
13	Judge Pebler:	Line is busy. It doesn't make sense, "your next
14		court date."
15	Clerk Rockwell:	Run this past (unintelligible), just so she knows.
16		I'll be right back. (Unintelligible).
17	Judge Pebler:	(On telephone): Yeah. This is Judge Pebler, the
18		Town of Roxbury. Randy Scharf was supposed
19		to-- was representing a Mark D. Bailey in your
20		court and he's supposed to be in my courtroom
21		today on a felony charge hearing and he gave me
22		an excuse that he has to be in your court. The
23		letter from your court says, "Your next court date
24		is 6/5/18-- Pardon me. September 5, 2018, at
25		9:00 AM," and I'm just wondering what's going

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1 on. All right. Thank you. Bye. (Off telephone):  
2 I don't get this. This is completely wacko.  
3 Clerk Rockwell: Yep.  
4 Judge Pebler: I just called the courtroom in Middlefield and she  
5 only has court the first Monday and the first  
6 Wednesday of the month.  
7 Clerk Rockwell: (Unintelligible) the court?  
8 Judge Pebler: She doesn't have a court clerk, so ...  
9 Clerk Rockwell: People are in court.  
10 Judge Pebler: Let's call John's office. (On telephone): Yeah.  
11 Judge Pebler, Town of Roxbury. How are you  
12 doing? Beautiful day today. No rain yet, so far.  
13 Yeah. Yeah. Is Shawn Smith in? Sure.  
14 Okay. Yeah. Sure thing. No, it's-- I'll be in the  
15 courtroom here for a while. Yeah, I'm in the  
16 courtroom. All right. Thank you, dear. Bye. All  
17 right. I've got to stop you from what you're doing  
18 (unintelligible).  
19 Clerk Rockwell: Oh, I'm really concentrating right now--  
20 Judge Pebler: --You tell me what--  
21 Clerk Rockwell: (Unintelligible) don't get long.  
22 Judge Pebler: You start from scratch and tell me what you think  
23 is that excuse.  
24 Clerk Rockwell: Today is August 15, 9 has come and gone. It says  
25 September 5, 2018. Wow. But there's another

1 one that says either later. There was another one  
2 that said later.

3 Judge Pebler: "The writer respectfully requests the court  
4 postpone the proceeding schedule for August 15,  
5 2018, or reschedule the appearance at a later time  
6 on that date. I am scheduled to appear in  
7 Middlefield Town Court at 9:00 AM on August  
8 15, 2018." The judge isn't in her courtroom,  
9 because she didn't answer her phone. I called.

10 Clerk Rockwell: And even his letterhead says, "Not for service."

11 Judge Pebler: Right. They all do. Even Rikard's does but they  
12 still do it.

13 Clerk Rockwell: Yeah, he's lied to you.

14 Judge Pebler: No, Rikard last--

15 Clerk Rockwell: --It looks like he's lied to you.

16 Judge Pebler: Yeah. Then like, last month he-- last week, he  
17 called and asked to adjourn his two small claims  
18 cases, because his client's going to start paying.

19 Clerk Rockwell: Well, that's good. Better that that works that way.

20 Judge Pebler: That is fre-- That is freaking frustrating.

21 Clerk Rockwell: No. That's lying to the court. Isn't that comp--  
22 contempt?

23 Judge Pebler: You know, but like do I want to go that route?

24 Clerk Rockwell: I don't know. I don't know.

25 Judge Pebler: That's the sad part. What number do you use to

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1 call the state police? Do you know off-hand? Is it  
2 1066?  
3 Clerk Rockwell: Depends on where you're calling.  
4 Judge Pebler: Middle-- Margaretville. Because, remember  
5 Officer Webster was here, they were going to hang  
6 around here to pick--  
7 Clerk Rockwell: --Right.  
8 Judge Pebler: --pick up Chad? Well, they're not coming. I'm  
9 trying to get ahold of him. All right. I'll call this  
10 other number.  
11 Clerk Rockwell: Or Stanford.  
12 Judge Pebler: Yeah, but they don't have a sergeant.  
13 Clerk Rockwell: I call-- When I call--  
14 Judge Pebler: --I think Webster is out of Middlebur--  
15 Middletown. Yeah. I'll do-- I'll do this one. 1-  
16 845-58-- Whoops. [REDACTED].  
17 Clerk Rockwell: I have 2--  
18 Judge Pebler: --Maybe I can get ahold of Brian.  
19 Clerk Rockwell: 2681 and 3299.  
20 Judge Pebler: (On telephone): Yeah. Yeah. Judge Pebler,  
21 Town of Roxbury. How are you doing? What the  
22 hell are you doing? I believe it. I'm trying to get--  
23 locate Officer Webster. Today's Wednesday the  
24 15<sup>th</sup>. He said he was going to be hanging around  
25 Grand Gorge here to pick up Chad Ostrander, but

1 Chad Ostrander's attorney asked for an  
2 adjournment, so we-- they had to grant it, because  
3 he wasn't going to appear, so-- It was, but we  
4 were going to have the sentencing hearing this  
5 morning and he was going to be sent to jail and  
6 that's why Webster wanted to be here to take him  
7 to the jail. Okay. Well, that solved my problem.  
8 No problem. If he's not working, he can't be-- he  
9 won't be patrolling this area, so no problem. How  
10 do I usually do it? I usually-- If I'm-- This is the  
11 first time I've did a sentencing day. Usually, it's  
12 right at the time when the DA's here and the  
13 sheriffs are here and they take them right down to  
14 the jail, but this was a separate hearing we're  
15 supposed to have today and, you know, I was  
16 going to sentence him to jail for one year and I  
17 knew all hell was going to break loose when that  
18 happened and-- But, it's not happening, so there's  
19 nothing I can do about it, so-- No. We're going to  
20 delay it for another week and wait until next week  
21 to worry about anything. He's due to-- He's  
22 supposed to have a hearing next Wednesday on the  
23 20-- the 22<sup>nd</sup>, but who knows if the ju-- attorney's  
24 going to adjourn it again. That's what pisses me  
25 off and anyway, I'm trying to get it straightened



1 out on my end. But I'm just trying to make sure  
2 that Webster wasn't hanging around waiting for  
3 me to call him, so-- Okay. No problem. Have a  
4 good one. Bye. Okay. Have to recall.

5 Clerk Rockwell: We have to do something different with those  
6 (unintelligible).

7 Judge Pebler: I don't know why we have to put all this crap up.  
8 I don't understand that. We're not employees.  
9 We're not employers, I mean. We're employees.  
10 So, I don't-- At least I'm glad the big ones are  
11 taken down. I never liked them.

12 Clerk Rockwell: But what about the entryway?

13 Judge Pebler: Oh, okay. I never liked them being in here. I went  
14 like, "Why are we being-- doing their job?"

15 Clerk Rockwell: The other two, I don't even know. I can tell  
16 (unintelligible)--

17 Judge Pebler: --Don't worry about them.

18 Clerk Rockwell: Maybe take those down. It'd be nice to have a  
19 little bulletin board there, right?

20 Judge Pebler: I had it here and now it's behind the bench.

21 Clerk Rockwell: Yeah, so Shawna was never allowed to have a  
22 pedicure, so we went right out and got a pedicure.

23 Judge Pebler: You've got to be kidding me.

24 Clerk Rockwell: Oh, no. It's been bad. She had to walk behind  
25 him.

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1	Judge Pebler:	Can I ask, is he an American?
2	Clerk Rockwell:	Yes. He is, but he's of Jordanian descent.
3	Judge Pebler;	Jordanian?
4	Clerk Rockwell:	Yep.
5	Judge Pebler:	Oh, yeah. That's-- One way to keep your woman
6		in control.
7	Clerk Rockwell:	Yeah, he did that.
8	Judge Pebler:	All right. So, that stays there. These are all the
9		bench warrants. These have all been rescinded.
10	Clerk Rockwell:	I think we have this one on the (unintelligible).
11	Judge Pebler:	All right. So, these all go together. These are--
12	Clerk Rockwell:	(Unintelligible). We're getting rid of that one.
13		Yep. These are duplicated. I can tell why.
14	Judge Pebler:	All right. So, now I can read the report and I feel
15		bad because I called the probation report
16		department and made the girl rush this through the
17		system.
18	Clerk Rockwell:	You didn't know.
19	Judge Pebler:	Right. That's what I'm saying, and now she did
20		extra work. Oh, well. All right.
21	Clerk Rockwell:	She's doing quite a bang-up job. She's getting
22		them out in no time.
23	Judge Pebler:	Who's that?
24	Clerk Rockwell:	I can't think of her name. It's an unusual name.
25	Judge Pebler:	Oh, the girl? Not Tanya.

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1	Clerk Rockwell:	(Unintelligible), or something.
2	Judge Pebler:	I thought I wrote it down. Nope. I didn't even
3		know Chad was married. Oh, well.
4	Clerk Rockwell:	(Unintelligible) when he got married?
5	Judge Pebler:	He said he's gotten divorced.
6	Clerk Rockwell:	Oh, no, no. He's gotten remarried. Chad got
7		remarried last week.
8	Judge Pebler:	What?
9	Clerk Rockwell:	To Amy.
10	Judge Pebler:	He married her last week, so now she can't testify
11		against him?
12	Clerk Rockwell:	Right.
13	Judge Pebler:	Dang.
14	Clerk Rockwell:	Sheryl just filled me in.
15	Judge Pebler:	Oh, well. Good for him. All right. He never
16		finished school. God, the father works at
17		Windham Mountain.
18	Clerk Rockwell:	Yeah, I know the father. I went to-- Well, he was
19		the grade ahead of me until--
20	Judge Pebler:	--So, now he's married, huh? (On telephone):
21		Roxbury Court, Judge Pebler speaking. Hey. No,
22		that's no problem. I'm going over-- Do you have
23		your paperwork in front of you for when Scharf
24		asked for this adjournment? Well, again, I just
25		called Middlefield Court and they're closed. I--

1 But here-- Yeah. I've got the Middlefield letter  
2 from the Middlefield Town Court, saying his--  
3 that Randel Scharf, your client, Mark D. Daily is  
4 supposed to appear on September 5, 2018, at 9:00  
5 AM. That's when he's supposed to be here. I  
6 don't understand-- But we set it up for today's  
7 date and then he's asking for an adjournment  
8 because he has to be in Middlefield. Yeah, I  
9 called him and the judge gets on she's like, "I've  
10 got no court clerk. Court hours are Mon-- The  
11 first Monday at 9:00 AM and the first Wednesday  
12 at 9:00 AM." Right. Right. Well, I'm asking you,  
13 what should I do? Should I call-- send this up to  
14 the resource center, our advisors, and say, "What  
15 should I do with this attorney?" Yeah, I mean-- I  
16 mean, again, I'm not calling him a liar, but I just  
17 wanted to verify this with the judge in Middlefield  
18 and when I got to her answering machine, she  
19 goes, "No clerk," she says, "I have no clerk and I  
20 only have court first Mondays and first  
21 Wednesdays of the month." So, figure that one  
22 out. And if she was there, she would have  
23 answered the phone, just like I answer the phone.  
24 Okay. I'll call the resource center and ask them  
25 what I should do and go on from there, because I

1 don't know what's going to happen next  
2 Wednesday. Right. And then you said-- Again, I  
3 don't have any of my records, but you're telling  
4 me that you have correspondence with Randel  
5 Scharf to appear on August 1<sup>st</sup> for-- So, again, I'm  
6 taking your word for it that you got that. I got  
7 nothing and that's what Randy tried to send,  
8 saying I'm going to file charges against you and  
9 Gumo. Well, I know. I've got the paperwork  
10 right in front of me on Section 530.60. I have  
11 every right when I feel like there's something  
12 going wrong to-- Yeah. Right. I know. So-- But  
13 again, I don't know what's going on with the  
14 gentleman, but I'll call the resource center and  
15 we'll still leave it on for next Wednesday at 9:00  
16 AM. All right. Good enough. Bye. Okay. ■  
17 ■-- Sure. Good morning. Judge  
18 Pebler, Town of Roxbury. I have a question for  
19 attorneys-- for one of the attorneys about a  
20 defense attorney in my courtroom who was lying  
21 to me about where he was supposed to be and I  
22 caught him in the act. He's asking for an  
23 adjournment and I-- There-- There's no other  
24 place that he's supposed to be except here. Sure  
25 thing. Take your time. Hey Dave, it's Judge

1 Pebler, Town of Roxbury. I have-- I have a  
2 defense attorney who I got-- caught in a lie to me  
3 this morning and I had a-- there's a defendant in  
4 my court-- who was supposed to be in my  
5 courtroom, with 16 different charges, one-- two of  
6 them were felonies that were dropped down to  
7 misdemeanors and we're supposed to have a  
8 sentencing today. Well, I got a thing on-- a fax on  
9 the-- through the fax machine, asking for an  
10 adjournment because he has prior commitments on  
11 a felony in a different court. I called the  
12 courtroom and that courtroom is closed today and  
13 she only has court on the first Monday and the first  
14 Wednesday of the month. So, I don't know what  
15 I should do on this point. But it's-- We're already  
16 done with-- the DA has left, everything, so I'm  
17 just, you know-- I mean, is there anybody I'm  
18 supposed to call and report this attorney to or--  
19 Okay, sure. Correct. Well, I come to court this  
20 morning, I only have court one day a week and he  
21 sent this on, let's see, six days ago that he's asking  
22 for his adjournment and the letterhead from the  
23 Town of Middlefield from that judge states that he  
24 will-- his client and him will appear in her court  
25 on September 5<sup>th</sup> at 9:00 AM. Well-- Okay.

1 Okay. I have to have something. Yeah. Right.  
2 Right. Okay. Because what's happening is last  
3 week in court-- Pardon me. On August 1<sup>st</sup>, he  
4 threatened to file with Judicial Conduct Committee  
5 against me for having *ex parte* information. It was  
6 our normal ADA day, I called him to let him know  
7 we can have a conference call on this and he never  
8 answered his phone-- the cell phone. Okay. I  
9 mean, and again, that's what scared me, because  
10 under 530.60, I'm allowed to bring the client-- his  
11 client, back in the court at any time when I feel  
12 that this client has done something wrong, and  
13 he's telling me-- Yeah. And he-- And he said,  
14 "No, you can't do it. I'm going to file charges  
15 against you and Judge Gumo," and they're  
16 like, "Whatever." Well, that's the trouble,  
17 everything was done through my home phone and  
18 I'm saying to everybody, "I'm not in court, I can't  
19 make a decision unless I'm in court," and these  
20 guys don't seem to get it. They seem like they  
21 want to circumvent the system and we judges just  
22 let it happen, so we've just got to stop doing it.  
23 Anyway, at least you answered my question and  
24 next Wednesday, I'll bring it up to him and see  
25 what happens. Okay. I appreciate you telling me

1 what to do. Have a good day. Yep. Bye. (Off  
2 telephone): See, I've got to get it on the  
3 record. Okay. He's-- I have to laugh. He thinks  
4 that there's something wrong with Mr. Scharf.  
5 Clerk Rockwell: There's a number of people who think there's  
6 something wrong with Mr. Scharf.  
7 Judge Pebler: He goes, "There's no way he should ever have  
8 threatened the judge with sanctions, never. You  
9 do it or you don't do it. There's no I'm going to."  
10 How do you like that one? So--  
11 Clerk Rockwell: --How about lying to the court?  
12 Judge Pebler: He says, "But get him next--" Then he goes,  
13 "John, get back--" "Get him next Wednesday in  
14 your courtroom, if he shows up, and put it on the  
15 record, were you in Middletown-- Middlefield  
16 Court? What was the outcome of the case?"  
17 Because he's got a date for September 5<sup>th</sup>, but he's  
18 also got a date right here for September 5<sup>th</sup>. How  
19 can he be in Cooperstown court and be here at the  
20 same time?  
21 Clerk Rockwell: Well, let's just hope he got confused.  
22 Judge Pebler: But it's happening too much. This is the trouble  
23 now. Even Shawn Smith says, "I don't like him  
24 doing what he's doing. He's not being fair to his  
25 client."



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1	Clerk Rockwell:	No, he's just screwed him right to the wall, that's
2		what he's done.
3	Judge Pebler:	If we're going to go back to the original charges,
4		they can't-- they can't-- They can't have no
5		further motions, we have to have a jury trial. What
6		do you think is going to happen if they have a jury
7		trial?
8	Clerk Rockwell:	Yay, I like them, too.
9	Judge Pebler:	I mean, I love-- Everything's out of my hands. I
10		just lean back and sit there and twiddle my fingers
11		sometimes and try to stay awake, but I mean, it's
12		sad that-- What's going to end up, I think,
13		happening with Chad, and I can only conjecture
14		here, is that they're going to lower the charges
15		down in this-- in my court and he's going to have
16		to plead to the felony charges up there in Judge
17		Gumo's court.
18	Clerk Rockwell:	All with your consent.
19	Judge Pebler:	Nothing to do with Judge Gumo. I'm going to
20		deal strictly with mine and say, you know--
21		They're going to-- I don't know what they're
22		going to say. I don't know. So, anyway. By the
23		way, her name is Valerie who-- the probation
24		officer. Valerie Oldsi-- Otsin. Whatever.
25		Anyway, so-- (On telephone): Roxbury Court,

1 Judge Pebler speaking. Hang on. I'll turn you over  
2 to my court clerk and she can look up your name  
3 and everything else. I have no idea what's going  
4 on. Okay? Hang on. Sandy, there's a young man  
5 who wants to know what his court date was that he  
6 missed.

7 Clerk Rockwell: (On telephone): Hi, this is Sandy. Can I help you?  
8 What's your name? And what is your date of  
9 birth? (Unintelligible). Yep. You were supposed  
10 to be here Wednesday of last week. What's your  
11 address, Jonathan? It was sent out to you on July  
12 11<sup>th</sup>. Well, actually (unintelligible) for you. It's  
13 the same as before. We do have an ADA this  
14 evening or Judge Pebler's next (unintelligible).  
15 Yes. Sure. Yep. You can do that. Very good.  
16 (Unintelligible). He didn't like (unintelligible) and  
17 stuff. (Off telephone): So, right now, you have  
18 Chad coming on the 5<sup>th</sup>? No.

19 Judge Pebler: No. Coming next-- We've got to send the letter  
20 out to everybody for next-- the 22<sup>nd</sup>.

21 Clerk Rockwell: And what is he coming for?

22 Judge Pebler: That's the trouble, I don't know what kind of  
23 hearing we're having.

24 Clerk Rockwell: Shawn sent me a letter, telling me there  
25 would be no hearing--

*(People v Chad Ostrander)*

1 Judge Pebler: --I even asked Shawn Sm--  
2 Clerk Rockwell: I think I printed it out. If I didn't, I will do so.  
3 9:00 AM again?  
4 Judge Pebler: Yes. I have to laugh at Sheryl. Sheryl, three  
5 weekends ago when you weren't here, she came in  
6 and asked if she can file charges for harassment  
7 against Johnny.  
8 Clerk Rockwell: (Unintelligible). That they were not girlfriend and  
9 boyfriend and never had been.  
10 Judge Pebler: Never had sex together. Never-- You know, I'm  
11 sorry. I wouldn't get personally involved in it, but  
12 I just-- I guess I did get personally involved.  
13 Clerk Rockwell: So, do I set it as a hearing--  
14 Judge Pebler: Well, can--  
15 Clerk Rockwell: --or a further--  
16 Judge Pebler: --you wait a couple more minutes, because I want  
17 to finish reading this to see what-- Well, let me  
18 see what the end page says.  
19 Clerk Rockwell: I know what the end page says. I wrote it.  
20 Judge Pebler: All right. What did it-- What did it say?  
21 Clerk Rockwell: They want him to go to jail.  
22 Judge Pebler: He has not used opiates and not had marijuana in  
23 the last 10 years. What? He last consumed  
24 alcohol in June. I mean, like, lying through your  
25 teeth.

1 Clerk Rockwell: Continue to read. And it says (unintelligible)  
2 requested the same. We don't want that. We need  
3 to change this letter.  
4 Judge Pebler: Period of incarceration. Okay. So, this  
5 would be-- I don't have anything in writing from  
6 Shawn Smith. This is a pre-sentencing report.  
7 (Unintelligible) order or the order gets a plea--  
8 pre-plea. Well, let's just get him in here.  
9 That's all. I don't care. Just say it's a hearing to--  
10 It said they want to send him to jail, so that's--  
11 they're going to ask for an adjournment.  
12 Clerk Rockwell: You want it sentencing? You don't want it  
13 sentencing (unintelligible).  
14 Judge Pebler: It's not sentencing, because there has been no offer  
15 on the table, because everything has been  
16 rescinded from Delhi.  
17 Clerk Rockwell: So, additional information and clarity? I don't  
18 know. Or just, "You've got to be here."  
19 Judge Pebler: Geez. I-- You know, I don't know what-- what  
20 you want to call these freaking--  
21 Clerk Rockwell: --If you call it a hearing, at least then you know  
22 that police will be called to be here if need be.  
23 Judge Pebler: Hang on. I'm trying to-- Every time I want to find  
24 what I-- these hearings are called, I can never get  
25 my fingers on it. Securing order. Securing order.

*(People v Chad Ostrander)*

1	Clerk Rockwell:	Do you want me to get that list off the bench?
2	Judge Pebler:	The what?
3	Clerk Rockwell:	That list of hearings?
4	Judge Pebler:	No, I've got it here somewhere. Here, I think this
5		is it. Various hearings names. Boy, there's
6		nothing simple. Guess what? There's none. Well,
7		there was no-- There's no-- It's just a plain ADA
8		day. It's a preliminary hearing. I mean, there's no
9		name for it. I mean, I just went through the whole
10		list here and there's no names for it.
11	Clerk Rockwell:	That's what we'll call it. Preliminary hearing.
12	Judge Pebler:	And if I'm wrong, we can do what we have to do.
13	Clerk Rockwell:	What is the legal definition of a hearing?
14	Judge Pebler:	To discuss what's happened to like the pre-plea or
15		pre-sentencing report. What do we call the ADA
16		day once a month?
17	Clerk Rockwell:	Conference.
18	Judge Pebler:	Put it on a conference hearing with the ADA.
19	Clerk Rockwell:	So, the last paragraph says about the bail. Then it
20		says, "If adjournment is requested, please contact
21		the court," and here's the phone number, or via fax
22		request to same.
23	Judge Pebler:	Okay.
24	Clerk Rockwell:	I think we should get rid of all of that and put, "No
25		adjournments will be granted."

*(People v Chad Ostrander)*

1	Judge Pebler:	But they're going to do it anyway.
2	Clerk Rockwell:	Just put it.
3	Judge Pebler:	All right. Put it on there. That way, we're cov--
4		our base is covered saying, "Well, then get
5		somebody else to represent your client."
6	Clerk Rockwell:	Shawn can't be here, right?
7	Judge Pebler:	Pardon me?
8	Clerk Rockwell:	Shawn will be here that day?
9	Judge Pebler:	He said so.
10	Clerk Rockwell:	Maybe it should be John.
11	Judge Pebler:	Well, I mean, it's Shawn is what we're talking
12		about.
13	Clerk Rockwell:	Yeah.
14	Judge Pebler:	I'm laughing at this thing, (unintelligible) this:
15		"Defendant is in a relationship with Amy Gancio,
16		and approximately for-- approximately five years
17		and they are engaged to be married. The
18		defendant reported to have a good relationship. It
19		should be noted that Amy is well-known in this
20		department, as she's been a convicted felon and
21		has a significant criminal history."
22	Clerk Rockwell:	Bonnie and Clyde.
23	Judge Pebler:	If he's not using the illicit drugs, then what is he
24		transporting them up his backside for?
25		

1                   **(August 15, 2018 from 11:02:04 AM to 11:03:36 AM)**  
2   Clerk Rockwell:           (On telephone): Hi, John. Sure. Sure. You're  
3                                   welcome. We'll see you then. Okay. Yep. Mm-  
4                                   hmm. All right.  
5   Judge Pebler:             You're the boss.  
6   Clerk Rockwell:           No. Jonathan Clark.  
7   Judge Pebler:             Who?  
8   Clerk Rockwell:           Jonathan Clark.  
9   Judge Pebler:             Who's that?  
10 Clerk Rockwell:           He was supposed to be here last week and never  
11                               showed up, so he's going to try to get here tonight.  
12 Judge Pebler:             Oh.  
13 Voicemail Machine:       Four messages. Message one, "I don't believe  
14                               this. I fucking don't believe it. How st--"  
15                               Message two. "Hi, Judge Pebler. Attorney Randy  
16                               Scharf calling about Chad Ostrander. I just heard  
17                               a warrant was issued in my absence, without any  
18                               input from me last week. I filed a complaint with  
19                               the New York State Commission on Judicial  
20                               Conduct setting forth the facts that the court had  
21                               an *ex parte* communication with the district  
22                               attorney and issued improperly and illegally  
23                               issued a warrant for Mr. Ostrander's arrest. I  
24                               would suggest that the court rescind the warrant in  
25                               order to mitigate the issue with the New York

*(People v Chad Ostrander)*

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State Commission on Judicial Conduct. My  
number is [REDACTED]. Thanks.” 6:36 PM,  
Tuesday. Message--



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CERTIFICATION

I, COURTNEY FRENCH, Junior 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: May 28, 2019

  
\_\_\_\_\_  
Courtney French

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



NEW YORK STATE  
COMMISSION ON JUDICIAL CONDUCT

61 BROADWAY  
NEW YORK, NEW YORK 10006

646-386-4800 646-458-0037  
TELEPHONE FACSIMILE  
[www.scjc.state.ny.us](http://www.scjc.state.ny.us)

ROBERT H. TEMBECKJIAN  
ADMINISTRATOR & COUNSEL

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HON. TERRY JANE RUDERMAN  
MEMBERS  
JEAN M. SAVANYU, CLERK

June 29, 2009

CONFIDENTIAL

Honorable Wayne R. Pebler  
Roxbury Town Justice  
P.O. Box C  
Grand Gorge, New York 12434

LETTER OF DISMISSAL AND CAUTION

Dear Judge Pebler:

The Commission on Judicial Conduct has completed its investigation of a complaint alleging that, in *Joseph Giangioffe v. Kathleen Paige*, a small claims matter, you awarded the defendant's car to her former landlord as a judgment and denied her an opportunity to explain her position. After considering your testimony and responses to the allegations, the Commission has determined not to institute formal charges.

In accordance with Section 7000.3(c) of the Commission's Operating Procedures and Rules, the Commission has dismissed the complaint with this letter of dismissal and caution.

You are cautioned to adhere to Section 100.1 of the Rules Governing Judicial Conduct ("Rules"), which requires a judge to observe high standards of conduct so that the integrity and independence of the judiciary will be preserved; Section 100.2(A) of the Rules, which requires a judge to respect and comply with the law and to act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary; Section 100.3(B)(1) of the Rules, which requires a judge to be faithful to the law and maintain professional competence in it; and Section 100.3(B)(6)

**EXHIBIT D**

of the Rules, which requires a judge to accord every person with a legal interest in a proceeding the right to be heard according to law and prohibits a judge from initiating, permitting or considering *ex parte* communications concerning a pending or impending proceeding.

Your one-on-one telephone calls to Tom Delong (a non-party to the proceeding) and Ms. Paige (the defendant), and your individual letters to the parties (without copies to each other) on June 14, 2002, and June 29, 2005, constituted unauthorized *ex parte* communications and did not comply with the above Rules. In addition, your letters of June 14, 2002, and June 29, 2005, by which you “reversed” a non-existent court order, related to a topic over which you had no subject matter jurisdiction (*i.e.* the ownership of a vehicle), were issued while no matter was pending before the court, and were instrumental in the plaintiff’s obtaining title to a vehicle to which he may not have been entitled.

In accordance with the Commission’s policy, you may either accept this letter of dismissal and caution or request a formal disciplinary hearing. If you choose to accept this letter of dismissal and caution, no further action will be taken. If you request a hearing, the Commission may authorize a Formal Written Complaint against you pursuant to Judiciary Law Section 44(4) and designate a referee to hear and report findings of fact and conclusions of law. If a hearing is held, the Commission may then decide to dismiss the complaint, issue a letter of caution to you, or file a determination pursuant to Judiciary Law Section 44(7) that you be publicly admonished, publicly censured, or removed from office.

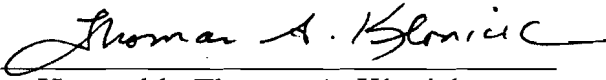
The letter of dismissal and caution is a confidential disposition of the current complaint but may be used in a future disciplinary proceeding pursuant to Section 7000.4 of the Commission’s Operating Procedures and Rules (22 NYCRR §7000.4).

Please advise the Commission in writing no later than 10 days after receipt of this letter if you choose not to accept this letter of dismissal and caution and wish to have a hearing on formal charges. If we do not hear from you requesting a formal hearing within 10 days, the letter shall be final.

A copy of the Commission's rules is enclosed for your information.

Very truly yours,

COMMISSION ON JUDICIAL CONDUCT

By:   
Honorable Thomas A. Klonick  
Chair

Enclosure

CERTIFIED MAIL  
RETURN RECEIPT REQUESTED

cc: Kevin M. Young, Esq.

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

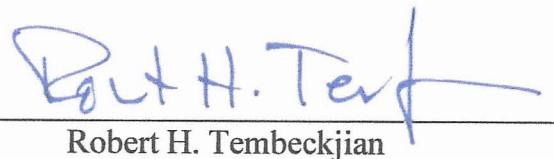
**WAYNE R. PEBLER,**

a Justice of the Roxbury Town Court,  
Delaware 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  
27<sup>th</sup> day of March 2020

  
\_\_\_\_\_  
Notary Public

EDWARD LINDNER  
NOTARY PUBLIC, STATE OF NEW YORK  
NO. 4740600  
QUALIFIED IN SARATOGA COUNTY  
COMMISSION EXPIRES 1/31/2022

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

**WAYNE R. PEBLER,**

a Justice of the Roxbury Town Court,  
Delaware County.

-----

**MANDATORY: Judge's Home Address**

In the event that a determination of the Commission on Judicial Conduct is made in the above matter requiring transmittal to the Chief Judge and service upon the judge in accordance with Judiciary Law § 44, subd. 7, the Court of Appeals has asked the Commission to provide the judge's home address.

---

Judge's Home Address

**OPTIONAL: Request and Authorization to Notify Judge's Attorney of Determination**

In the event that a determination of the Commission on Judicial Conduct is made in the above matter requiring transmittal to the Chief Judge and service upon me in accordance with Judiciary Law § 44, subd. 7, the undersigned judge or justice:

(1) requests and authorizes the Chief Judge to cause a copy of my notification letter from her and a copy of the determination to be sent to my attorney(s) by mail:

---

Attorney's Name, Address, Telephone

(2) requests and authorizes the Clerk of the Commission to transmit this request to the Chief Judge together with the other required papers.

This request and authorization shall remain in force unless and until a revocation in writing by the undersigned judge or justice is received by the Commission.

Dated:

\_\_\_\_\_  
Signature of Judge or Justice

Acknowledgment:

\_\_\_\_\_  
Signature of Attorney for Judge or Justice

**SEND TO:** Clerk of the Commission  
State Commission on Judicial Conduct  
61 Broadway, Suite 1200  
New York, New York 10006