

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

DANIEL P. SULLIVAN,

**AGREED
STATEMENT OF FACTS**

A Justice of the Whitestown Town Court,
Oneida County.

Subject to the approval of the Commission on Judicial Conduct

("Commission"):

IT IS HEREBY STIPULATED AND AGREED by and between Robert H. Tembeckjian, Administrator and Counsel to the Commission, and Honorable Daniel P. Sullivan ("Respondent"), who is represented in this proceeding by Robert F. Julian, Esq., that further proceedings are waived and that the Commission shall make its determination upon the following facts, which shall constitute the entire record in lieu of a hearing.

1. Respondent was elected Justice of the Whitestown Town Court, Oneida County, on November 8, 2011 and has served as such since January 1, 2012. Respondent's term expires on December 31, 2015. He is not an attorney.
2. Respondent was served with a Formal Written Complaint dated March 24, 2015, a copy of which is appended as Exhibit 1. He enters into this Agreed Statement of Facts in lieu of filing an Answer.

As to Charge I

3. On July 20, 2013, and July 22, 2013, Respondent created the appearance of impropriety and lent the prestige of his judicial office to advance his son's private interests, by requesting leniency for his son from two law enforcement officers in two separate conversations, concerning impending charges of Overdriving, Torturing and Injuring Animals, a misdemeanor, and Violating Prohibited Park Hours, a violation under the local law.

Specifications to Charge I

4. On Friday, July 19, 2013, shortly after 9:00 PM, Whitestown Police Officer Frank S. McCully contacted Respondent regarding Respondent's 19-year-old son, Joseph Sullivan, and asked Respondent to come to the Gibson Road Town Park.

5. When Respondent arrived at the park a few minutes later, his son was handcuffed and sitting in the back seat of a police car in the parking area adjacent to park restrooms. Officer McCully led Respondent to the women's restroom where he had earlier found Joseph Sullivan with two small kittens. One of the kittens had been hog-tied with tape, and there was a lighter nearby. Officer McCully informed Respondent that his son would be charged at a later time and would be allowed to go home with Respondent that night. Respondent was given custody of the kittens to return them to the location where his son had obtained them. No charges were issued against Respondent's son that night.

6. Early the next morning, Saturday, July 20, 2013, Respondent telephoned Whitestown Chief of Police Donald Wolanin on the chief's cell phone to discuss the incident in the park the night before. Respondent told the chief that he hoped that the police would not "go piling on" charges or "overcharge" his son, or words to that effect.

7. On the evening of July 22, 2013, at the conclusion of Respondent's court session, Officer McCully entered the Whitestown Town Court and asked to speak with Respondent. The two went outside the building, where Officer McCully said that he needed Respondent's son to come to the police station where the officer would issue an appearance ticket for animal cruelty and being in the park after hours. Respondent stated, "Do you really have to arrest him?" or words to that effect. Respondent told Officer McCully that if his son was arrested it would ruin his chances of getting a job with the Oneida County sheriff.

8. Respondent also said to Officer McCully that his son's drug rehabilitation had cost Respondent and his wife nearly all their life savings. Respondent argued that because the kittens were not actually injured, a charge of cruelty to animals did not apply.

9. Later on July 22, 2013, Officer McCully charged Respondent's son with violating Agriculture and Markets Law §353 (Overdriving, Torturing and Injuring Animals), a misdemeanor, and Town of Whitestown Local Law §145-1 (Violating Prohibited Park Hours), a violation. The charges against Respondent's son were subsequently transferred to the Oriskany Village Court, where the son pled guilty to a violation of Section 359 of the Agriculture and Markets Law (Carrying Animal in a Cruel

Manner). He was sentenced to a one-year Conditional Discharge that required him: (1) to refrain from possessing or being in the presence of any feline, (2) to stay out of the Whitestown Park grounds, (3) to complete 50 hours of community service and (4) to pay a mandatory surcharge of \$205.00.

10. By reason of the foregoing, Respondent should be disciplined for cause, pursuant to Article 6, Section 22, subdivision (a), of the Constitution and Section 44, subdivision 1, of the Judiciary Law, in that Respondent failed to uphold the integrity and independence of the judiciary by failing to maintain high standards of conduct so that the integrity and independence of the judiciary would be preserved, in violation of Section 100.1 of the Rules; and failed to avoid impropriety and the appearance of impropriety, in that he failed to 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 lent the prestige of judicial office to advance his son's private interests, in violation of Section 100.2(C) of the Rules.

Additional Factors

11. Respondent has been cooperative throughout the Commission inquiry.

12. Although understandably concerned that his son was about to be charged by the police, Respondent recognizes that it was improper to call the chief of police, and to communicate with the arresting officer, in order to suggest leniency for his son. He acknowledges that his "'paternal instincts' do not justify a departure from the standards expected of the judiciary." *Matter of Edwards*, 67 NY2d 153, 155 (1986). He also recognizes that "any communication from a Judge to an outside agency on behalf of

another, may be perceived as one backed by the power and prestige of judicial office.”
Matter of Lonschein, 50 NY2d 569, 572 (1980). Respondent regrets his failure to abide by the applicable Rules and pledges henceforth to abide by them faithfully.

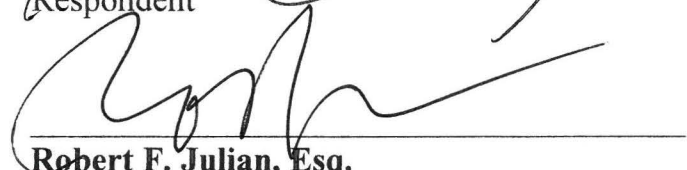
IT IS FURTHER STIPULATED AND AGREED that the parties to this Agreed Statement of Facts respectfully recommend to the Commission that the appropriate sanction is public Censure based upon the judicial misconduct set forth above.

IT IS FURTHER STIPULATED AND AGREED that if the Commission accepts this Agreed Statement of Facts, the parties waive oral argument and waive further submissions to the Commission as to the issues of misconduct and sanction, and that the Commission shall thereupon impose a public Censure without further submission of the parties, based solely upon this Agreed Statement. If the Commission rejects this Agreed Statement of Facts, the matter shall proceed to a hearing and the statements made herein shall not be used by the Commission, the Respondent or the Administrator and Counsel to the Commission.

Dated: 4.16.15


Honorable Daniel P. Sullivan
Respondent

Dated: 4/16/15


Robert F. Julian, Esq.
Attorney for Respondent

Dated: April 16, 2015



Robert H. Tembeckjian
Administrator & Counsel to the Commission
(Thea Hoeth, Of Counsel)

EXHIBIT 1

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

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

DANIEL P. SULLIVAN,

a Justice of the Whitestown Town Court,
Oneida County.

**NOTICE OF FORMAL
WRITTEN COMPLAINT**

NOTICE is hereby given to Respondent, Daniel P. Sullivan, a Justice of the Whitestown Town Court, Oneida 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 24, 2015
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: Robert F. Julian, Esq.
Attorney for Respondent
2037 Genesee Street
Utica, New York, 13501

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

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

**FORMAL
WRITTEN COMPLAINT**

DANIEL P. SULLIVAN,

a Justice of the Whitestown Town Court,
Oneida County.

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

2. The Commission has directed that a Formal Written Complaint be drawn and served upon Daniel P. Sullivan (“Respondent”), a Justice of the Whitestown Town Court, Oneida 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 was elected Justice of the Whitestown Town Court, Oneida County, on November 8, 2011 and has served as such since January 1, 2012. Respondent’s term expires on December 31, 2015. He is not an attorney.

CHARGE I

5. On or about July 20, 2013, and July 22, 2013, Respondent created the appearance of impropriety and lent the prestige of his judicial office to advance his son's private interests, by requesting leniency for his son from two law enforcement officers in two separate conversations, concerning impending charges of Overdriving, Torturing and Injuring Animals, a misdemeanor, and Violating Prohibited Park Hours, a violation under the local law.

Specifications to Charge I

6. On or about Friday, July 19, 2013, shortly after 9:00 PM, Whitestown Police Officer Frank S. McCully contacted Respondent regarding Respondent's 19-year-old son, Joseph Sullivan, and asked Respondent to come to the Gibson Road Town Park.

7. When Respondent arrived at the park a few minutes later, his son was handcuffed and sitting in the back seat of a police car in the parking area adjacent to park restrooms. Officer McCully led Respondent to the women's restroom where he had earlier found Joseph Sullivan with two small kittens. One of the kittens had been hog-tied with tape, and there was a lighter nearby. Officer McCully informed Respondent that his son would be charged at a later time and would be allowed to go home with Respondent that night. Respondent took custody of the kittens to return them to the location where his son had obtained them. No charges were issued against Respondent's son that night.

8. Early the next morning, on or about Saturday, July 20, 2013, Respondent telephoned Whitestown Chief of Police Donald Wolanin on the chief's cell phone to discuss the incident in the park the night before. Respondent told the chief that he hoped that the police would not "go piling on" charges or "overcharge" his son, or words to that effect.

9. On or about the evening of July 22, 2013, at the conclusion of Respondent's court session, Officer McCully entered the Whitestown Village Court and asked to speak with Respondent. The two went outside the building, where Officer McCully said that he needed Respondent's son to come to the police station where the officer would issue an appearance ticket for animal cruelty and being in the park after hours. Respondent stated, in words or substance, "Do you really have to arrest him?" Respondent told Officer McCully that if his son was arrested he would lose a recent job offer from the Oneida County sheriff.

10. Respondent also said to Officer McCully that his son's drug rehabilitation had cost Respondent and his wife nearly all their life savings. Respondent argued that because the kittens were not actually injured, a charge of cruelty to animals did not apply.

11. Respondent also said to Officer McCully, "you're not from around here" and told him, in words or substance, that "years ago" cats in the area were called "Whitesboro bobcats" because when Respondent and his friends found either a domesticated or feral cat running around they would chop off part of its tail and set it free.

12. Later on July 22, 2013, Officer McCully charged Respondent's son with violating Agriculture and Markets Law §353 (Overdriving, Torturing and Injuring

Animals), a misdemeanor, and Town of Whitestown Local Law §145-1 (Violating Prohibited Park Hours), a violation. Copies of the charges are annexed as Exhibit A and Exhibit B, respectively. The charges against Respondent's son were subsequently transferred to the Oriskany Village Court, where the son pled guilty to a violation of Section 359 of the Agriculture and Markets Law (Carrying Animal in a Cruel Manner). He was sentenced to a one-year Conditional Discharge that required him: (1) to refrain from possessing or being in the presence of any feline, (2) to stay out of the Whitestown Park grounds, (3) to complete 50 hours of community service and (4) to pay a mandatory surcharge of \$205.00.

13. By reason of the foregoing, Respondent should be disciplined for cause, pursuant to Article 6, Section 22, subdivision (a), of the Constitution and Section 44, subdivision 1, of the Judiciary Law, in that Respondent failed to uphold the integrity and independence of the judiciary by failing to maintain high standards of conduct so that the integrity and independence of the judiciary would be preserved, in violation of Section 100.1 of the Rules; and failed to avoid impropriety and the appearance of impropriety, in that he failed to 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 lent the prestige of judicial office to advance his son's private interests, in violation of Section 100.2(C) 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 24, 2015
New York, New York



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

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

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

VERIFICATION

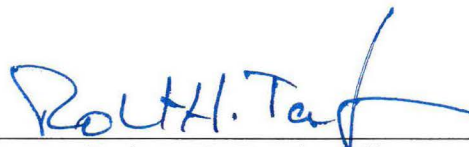
DANIEL P. SULLIVAN,

a Justice of the Whitestown Town Court,
Oneida 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
24th day of March 2015



Notary Public

MARY C. FARRINGTON
Notary Public, State of New York
No. 02FA6241341
Qualified in Kings County
Commission Expires May 16, 2015

Local Criminal Court
Town of Whitestown

County of Oneida
State of New York

The People of the State of New York
vs

Joseph M. Sullivan
DOB 10/18/1993
2 Berra Lane
Whitesboro, NY 13492
Defendant(s)



Information / Complaint

I, Officer F.S. McCully, the complainant herein, ACCUSE the Defendant(s)

Joseph M. Sullivan

of the offense of Overdriving, Torturing and Injuring Animals; Failure to Provide Proper Sustenance, in violation of Section 353 of the Agriculture and Markets Law of the State of New York, a Misdemeanor.

The following are the FACTS upon which such accusation is based:

On or about July 19, 2013 at about 9:10 o'clock in the afternoon, in the Town of Whitestown County of Oneida, State of New York, the said defendant(s) did overdrive, overload, torture, cruelly beat or unjustifiably injure, maim, mutilate or kill an animal, whether wild or tame, and whether belonging to himself or another, or deprived an animal of necessary sustenance, food or drink, or neglected or refused to furnish it such sustenance or drink, caused, procured or permitted such conduct, or willfully set on foot, instigated, engaged in, or in any way furthered an act of cruelty to an animal, or an act tending to produce such cruelty. To Wit:

The said defendant, while at the Gibson Road Town Park located on Gibson Rd in the Town of Whitestown, County of Oneida, State of New York, did knowingly and intentionally torture a small kitten by taping its front paws together and also taping its rear paws together while in the woman's room at the Town Park. The rest of the small kitten was also covered in scotch tape making it impossible for the kitten to stand. All contrary to the provisions of the statute in such case made and provided.

The foregoing factual allegations are based upon personal knowledge of the deponent and/or information and belief, the sources of deponent's information and belief being my investigation into this matter as a Police Officer for the Town of Whitestown Police Department.

WHEREFORE, Complainant respectfully requests that a Warrant of Arrest or Criminal Summons (if not a Felony) be issued against the defendant(s).

I have read the foregoing and understand that **FALSE STATEMENTS MADE HEREIN ARE PUNISHABLE AS A CLASS A MISDEMEANOR PURSUANT TO SECTION 210.45 OF THE PENAL LAW.**

Off Paul McCully

COMPLAINANT

Verified and Subscribed before me on _____

Signature

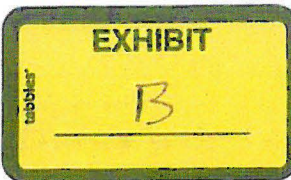
Title

Case #

13-25756

Local Criminal Court
Town of Whitestown

County of Oneida
State of New York



Information / Complaint

**The People of the State of New York
vs**

Joseph M. Sullivan

DOB 10/18/1993

2 Berra Lane

Whitesboro, NY 13492

Defendant(s)

I, Officer F.S. McCully, the complainant herein, **ACCUSE** the Defendant(s)

Joseph M. Sullivan

of the Offense of Violating Prohibited Park Hours

in violation of Section 145-1 Subdivision

of the Local Law

of the Town of Whitestown a Violation

The following are the **FACTS** upon which such accusation is based:

On or about July 19, 2013 at about 9:10 o'clock in the afternoon, in the Town of Whitestown County of Oneida, State of New York, the said defendant(s) did unlawfully Enter upon the grounds of the Whitestown Town Park located on Gibson Rd during in which the park is not open to the general public, said park being open to the general public between January 1st and December 31st each year between the hours of 8:00 a.m. and dusk daily, and at no other times.

To Wit: The said defendant at the aforesaid date and time did enter upon the property of the Gibson Rd Town Park between the hours of dusk and 8:00 a.m., when the said park is closed. The park being located on Gibson Rd in the Town of Whitestown, County of Oneida, State of New York, all contrary to the provisions of the statute in such case made and provided.

The foregoing factual allegations are based upon personal knowledge of the deponent and/or information and belief, the sources of deponent's information and belief being my investigation into this matter as a Police Officer for the Town of Whitestown.

WHEREFORE, Complainant respectfully requests that a Warrant of Arrest or Criminal Summons (if not a Felony) be issued against the defendant(s).

I have read the foregoing and understand that **FALSE STATEMENTS MADE HEREIN ARE PUNISHABLE AS A CLASS A MISDEMEANOR PURSUANT TO SECTION 210.45 OF THE PENAL LAW.**

Ofc Paul Mahony

COMPLAINANT

Verified and Subscribed before me on _____

Signature

Title

Case #

13-25756