



NEW YORK STATE
COMMISSION ON JUDICIAL CONDUCT

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NEWS RELEASE

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Perth Town Court Justice Censured for Driving While Under the Influence of Alcohol and Other Misconduct

The New York State Commission on Judicial Conduct has determined that Bonnie Simpson Burke, a Justice of the Perth Town Court, Fulton County, should be censured.

In a determination dated December 15, 2009, the Commission found that Judge Burke drove while under the influence of alcohol and presided over two cases involving a friend.

Judge Burke had been charged with Driving While Intoxicated in January 2008 after colliding with another vehicle. Her blood alcohol content registered .11% shortly after her arrest. In February 2008 the judge pleaded guilty to Driving While Ability Impaired and received a conditional discharge, a suspended license and a fine.

“By failing to abide by laws she is called upon to apply in court, [the judge] undermined her effectiveness as a judge and brought the judiciary as a whole into disrepute,” the Commission said in its determination.

The Commission also said it was improper for Judge Burke to preside over two criminal cases in which her close friend or his spouse was the complaining witness.

“At the very least, she should have disclosed the relationship and given the parties an opportunity to be heard on the issue before proceeding,” the Commission said. “While it has been stipulated that there is no evidence of favoritism in her decisions in these cases, her conduct conveyed an appearance of impropriety.”

The determination can be found on the Commission’s web site:

www.scjc.state.ny.us.

The Commission Proceedings

Judge Burke was served with a Formal Written Complaint dated August 12, 2009, containing three charges, and filed an answer dated September 17, 2009.

The Administrator of the Commission, Judge Burke and the judge’s attorney entered into an Agreed Statement of Facts on October 28, 2009, stipulating as to the facts and sanction and waiving further submissions and oral argument. The Commission accepted the Agreed Statement on November 5, 2009.

The Commission Determination

The Commission filed a determination dated December 15, 2009.

Judge Thomas A. Klonick (the Commission Chair), Stephen R. Coffey, Esq. (the Vice Chair), Richard D. Emery, Esq., Paul B. Harding, Esq., Elizabeth B. Hubbard, Judge Jill Konviser, Nina M. Moore, Judge Karen K. Peters and Judge Terry Jane Ruderman concurred.

Joseph W. Belluck, Esq., dissented in an opinion on the basis that the judge should be removed from office.

Court of Appeals Review

The Commission transmitted its determination to the Chief Judge of the Court of Appeals, pursuant to Judiciary Law Section 44, subdivision 7.

A judge may either accept the Commission's determination or, within 30 days of receipt, make a written request to the Chief Judge for a review of the determination by the Court of Appeals.

Pursuant to Judiciary Law Section 44, subdivision 7, if Judge Burke does not request review by the Court of Appeals, the Commission will censure her in accordance with the determination.

If the Commission's determination is reviewed by the Court of Appeals, the Court may accept the determined sanction, impose a different sanction including admonition, censure or removal, or impose no sanction.

Statistics Relating to Prior Determinations

Since 1978, the Commission has censured 282 judges in New York State, 199 of who were part-time judges. The Commission has issued a determination of removal as to 160 judges and has admonished 236 judges.

The Court of Appeals has reviewed 91 Commission determinations. The Court accepted the Commission's sanctions in 75 cases (66 of which were removals, 6 were censures and 3 were admonitions). Of the remaining 16 cases, two sanctions were increased from censure to removal, and 13 were reduced: 9 removal determinations were modified to censure, one removal was modified to admonition, two censures were modified to admonition, and one censure was rejected and the charges dismissed. The Court remitted one matter back to the Commission for further proceedings.

Counsel

In the proceedings before the Commission, Judge Burke was represented by Robert Abdella, Esq., Abdella Law Offices, 8 West Fulton Street, Gloversville, New York 12078, (518) 725-9717.

The Commission was represented by Robert H. Tembeckjian, Esq., Administrator and Counsel to the Commission, and Senior Attorney Jill S. Polk, Esq. Senior Investigator David Herr assisted in the investigation.

Members of the Commission

The Commission members serve four-year terms. A list of members is appended.

The Public File

The determination is attached. The record of the proceedings upon which the determination is based is available for inspection by appointment during regular business hours at the Commission's three offices:

61 Broadway
New York, New York 10006

Corning Tower, Suite 2301
Empire State Plaza
Albany, New York 12223

400 Andrews Street
Rochester, New York 14604

MEMBERS OF THE STATE COMMISSION ON JUDICIAL CONDUCT

Member	Appointing Authority	Term End
Hon. Thomas A. Klonick, Chair	Chief Judge Jonathan Lippman	March 31, 2013
Stephen R. Coffey, Esq., Vice Chair	Former Senate President Pro Tem Joseph L. Bruno	March 31, 2011
Joseph W. Belluck, Esq.	Governor David A. Paterson	March 31, 2012
Richard D. Emery, Esq.	Former Senate Minority Leader Malcolm A. Smith	March 31, 2012
Paul B. Harding, Esq.	Former Assembly Minority Leader James Tedisco	March 31, 2013
Elizabeth B. Hubbard	Governor David A. Paterson	March 31, 2011
Hon. Jill Konviser	Former Governor George E. Pataki	March 31, 2010
Nina M. Moore	Governor David A. Paterson	March 31, 2013
Hon. Karen K. Peters	Former Chief Judge Judith S. Kaye	March 31, 2010
Hon. Terry Jane Ruderman	Former Chief Judge Judith S. Kaye	March 31, 2012
Vacant	Assembly Speaker Sheldon Silver	March 31, 2010