



NEW YORK STATE
COMMISSION ON JUDICIAL CONDUCT

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NEWS RELEASE

FOR RELEASE October 8, 2009

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The New York State Commission on Judicial Conduct has determined that David M. Trickler, a Justice of the Birdsall Town Court, Burns Town Court and Grove Town Court, Allegany County, should be admonished.

In a determination dated September 30, 2009, the Commission found that Judge Trickler “failed to perform certain administrative responsibilities with respect to numerous cases as required by law” from 2004 to 2006.

The judge did not remit fines and fees to the State Comptroller in a timely manner, was derelict in reporting convictions in traffic cases, neglected to record and issue fine and fee receipts to defendants, and failed to use available means to punish defendants who had failed to appear or pay fines in traffic cases. As a result, the state was deprived of funds that should have been collected.

“Such neglect is unacceptable since it promotes disrespect for the administration of justice, deprived state and local authorities of monies that should have been collected, and enabled defendants whose licenses should have been suspended to continue to drive for months or years,” the Commission said.

There is no indication the money in question was not properly deposited, was missing or otherwise mishandled. As a result of the Commission investigation,

Judge Trickler is now up to date, has accounted for all of the money in question, has sought additional training in recordkeeping and financial management from the State Comptroller's Office, and is working with his newly hired court clerk to avoid recurrence of the problem.

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

www.scjc.state.ny.us.

The Commission Proceedings

Judge Trickler was served with a Formal Written Complaint dated August 8, 2008 containing four charges, and filed an answer dated September 22, 2008.

The Administrator of the Commission, the judge's counsel and the judge entered into an Agreed Statement of Facts on July 31, 2009, stipulating as to the facts and sanction and waiving further submissions and oral argument. The Commission accepted the Agreed Statement on September 23, 2009.

The Commission Determination

The Commission filed a determination dated September 30, 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, Nina M. Moore, Judge Karen K. Peters and Judge Terry Jane Ruderman concurred.

Joseph W. Belluck, Esq., and Judge Jill Konviser were not present.

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 from 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 Trickler does not request review by the Court of Appeals, the Commission will admonish him 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 admonished 234 judges in New York State, 152 of who were part-time judges. The Commission has issued a determination of removal as to 160 judges and has censured 277 judges.

The Court of Appeals has reviewed 88 Commission determinations. The Court accepted the Commission's sanctions in 74 cases (65 of which were removals, 6 were censures and 3 were admonitions). Of the remaining 14 cases, two determinations were increased from censure to removal, and 12 were reduced: 9 removal determinations were modified to censure, two censure determinations were modified to admonition, and one censure was rejected and the charges dismissed.

Counsel

In the proceedings before the Commission, Judge Trickler was represented by Joseph G. Pelych, Esq., 211 Main Street, Hornell, New York 14843, (607) 324-6111.

The Commission was represented by Robert H. Tembeckjian, Esq., Administrator and Counsel to the Commission, John J. Postel, Esq., Deputy Administrator for the Commission's Rochester office, and Senior Attorney David M. Duguay, Esq. Senior Investigator Rebecca Roberts 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