



NEW YORK STATE
COMMISSION ON JUDICIAL CONDUCT

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NEWS RELEASE

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Supreme Court Justice from Kingston (Ulster County) Admonished for Failing to Render Decisions in a Timely Manner

The New York State Commission on Judicial Conduct has determined that James P. Gilpatric, a Justice of the Supreme Court, Third Judicial District (Ulster County), should be admonished for conduct that occurred when he was a Judge of the Kingston City Court.

In a determination dated April 27, 2010, the Commission found that Judge Gilpatric failed to render decisions in a timely manner in 26 cases despite having been cautioned earlier by the Commission about his delays, and in spite of the intervention of his administrative judge and numerous inquiries by litigants.

The Commission had previously admonished Judge Gilpatric for this misconduct in June 2009. Judge Gilpatric requested review of that decision, claiming the Commission lacked jurisdiction to discipline him for decisional delays. The Court of Appeals affirmed the Commission's jurisdiction in such matters and remitted the case for further proceedings so that a fuller factual record could be developed.

Following the Court's decision, the Commission's Administrator and Judge Gilpatric entered into a stipulation, in which the judge acknowledged his misconduct, conceded that the Commission's prior caution should have prompted him to issue decisions in a more timely manner and agreed to accept a public admonition.

The Commission accepted the stipulation and emphasized the significance of these delays.

"We view such delays as serious misconduct because of the adverse consequences on individual litigants, who are deprived of the opportunity to have their claims resolved in a timely manner, and on public confidence in the administration of justice," the Commission said in its determination.

In mitigation, the Commission noted that Judge Gilpatric reported all the delayed matters as required on his quarterly administrative reports.

The determination can be found on the Commission's website:
www.scjc.state.ny.us.

The Commission Proceedings

Judge Gilpatric was served with a Formal Written Complaint dated August 8, 2008, containing one charge, and filed an answer dated September 8, 2008.

The judge moved on September 8, 2008 to dismiss the Formal Written Complaint. The administrator of the Commission opposed the motion and cross-moved for summary determination. The Commission granted the Commission administrator's cross-motion on December 16, 2008 and filed a determination of admonition dated June 5, 2009.

After the judge requested review, the Court of Appeals held that the Commission could impose formal discipline for "delays [that] are lengthy and without valid excuse." *Matter of Gilpatric*, 13 NY3d 586, 590 (2009). Noting that the summary proceedings in the matter did not present a sufficient factual record for the Court to determine the appropriate sanction, the Court remitted the matter to the Commission for further proceedings.

On April 7, 2010, the Administrator of the Commission, the judge and the judge's attorney entered into an Agreed Statement of Facts stipulating as to the facts and

sanction and waiving further submissions and oral argument. On April 15, 2010, the Commission accepted the Agreed Statement.

The Commission Determination

The Commission filed a determination dated April 27, 2010. Judge Thomas A. Klonick (the Commission Chair), Stephen R. Coffey, Esq. (the Vice Chair), Judge Rolando T. Acosta, Richard D. Emery, Esq., Paul B. Harding, Esq., Elizabeth B. Hubbard, Nina M. Moore, and Judge Terry Jane Ruderman concurred in the determination. Joseph W. Belluck, Esq., concurred in the result. Judge Karen K. Peters did not participate.

Prior Discipline

In 2005 the Commission censured Judge Gilpatric for an episode in which he appeared in court and tried to take the bench later that day while under the influence of alcohol.

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 Gilpatric 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 238 judges in New York State. The Commission has issued a determination of removal as to 160 judges and has censured 284 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, six were censures and three 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 (*Matter of Gilpatric*) to the Commission for further proceedings.

Counsel

In the proceedings before the Commission, Judge Gilpatric was represented by James E. Long, Esq., 668 Central Avenue, Albany, New York 12206, (518) 458-2444.

The Commission was represented by Robert H. Tembeckjian, Esq., Administrator and Counsel to the Commission, and Thea Hoeth, Esq., a Senior Attorney. Investigator Ryan Fitzpatrick 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
Hon. Rolando T. Acosta	Chief Judge Jonathan Lippman	March 31, 2014
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
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Nina M. Moore	Governor David A. Paterson	March 31, 2013
Honorable Karen K. Peters	Governor David A. Paterson	March 31, 2014
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