



NEW YORK STATE
COMMISSION ON JUDICIAL CONDUCT

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NEWS RELEASE

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Albany County Family Court Judge Censured for Drinking & Driving Offense and Seeking Favorable Treatment by Asserting His Judicial Office

The New York State Commission on Judicial Conduct has determined that Gerard E. Maney, a Judge of the Family Court and an Acting Justice of the Supreme Court, Albany County, should be censured for being convicted of DWAI (driving while his ability was impaired by alcohol), and for asserting his judicial office in connection with his arrest. The Commission noted that it does not have authority to suspend a judge without pay.

The Commission found that after consuming alcohol at a private club in Albany County on June 18, 2009, Judge Maney, who was driving his personal car which had judicial license plates, made an illegal U-turn in an attempt to avoid a sobriety checkpoint. A local police officer pursued him in a marked police vehicle for approximately half a mile before the judge stopped his vehicle.

Judge Maney repeatedly tried “to avoid the full consequences of his wrongdoing”

by making repeated references to his judicial status during his arrest while asking the arresting officers for “professional courtesy” and “consideration.” He also used mouthwash at the scene, initially refused to take a sobriety test and delayed taking a breathalyzer test for an hour at the police station while making numerous phone calls. These calls included an unsuccessful attempt to contact Albany County District Attorney David Soares. The Commission found that these “aggravating circumstances” were “disturbing” and significantly exacerbated the judge’s misconduct.

Judge Maney’s conduct “violated his ethical obligation to respect and comply with the law and endangered public safety,” the Commission said in its determination. The Commission added: “By engaging in such conduct, [Judge Maney] undermined his effectiveness as a judge and brought the judiciary as a whole into disrepute.”

The Commission stated that it would have suspended the judge without pay if it had the power to do so. The Commission noted in mitigation that this was an isolated incident over a 19-year judicial career, and the judge acknowledged his misconduct and recognized that a severe sanction was appropriate.

The determination can be found on the Commission’s website: www.cjc.ny.gov.

The Commission Proceedings

Judge Maney was served with a Formal Written Complaint dated October 29, 2009, containing two charges, and filed an answer dated December 7, 2009.

The Commission designated H. Wayne Judge, Esq., as referee to hear and report proposed findings of fact and conclusions of law. A hearing was held on August 5, 2010, in Albany, and the referee filed a report dated September 15, 2010.

The parties submitted briefs with respect to the referee’s report and the issue of sanctions. Both parties recommended that the judge be censured, and the Commission heard oral argument on November 4, 2010.

The Commission Determination

The Commission filed a determination dated December 20, 2010. Judge Thomas A. Klonick (the Commission Chair), Stephen R. Coffey, Esq. (the Vice Chair), Judge Rolando T. Acosta, Joel Cohen, Esq., Paul B. Harding, Esq., Nina M. Moore, Judge Karen K. Peters, and Judge Terry Jane Ruderman concurred.

Joseph W. Belluck, Esq., Richard D. Emery, Esq., and Elizabeth B. Hubbard dissented as to the sanction and voted that Judge Maney be removed from office. Mr. Belluck filed a dissenting opinion, which Mr. Emery joined. Mr. Cohen filed a concurring opinion, which Mr. Coffey and Mr. Harding joined.

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 Maney does not request review by the Court of Appeals, the Commission will censure 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 issued 289 determinations of censure against judges in New York State. The Commission has issued 161 determinations of removal and 240 determinations of admonition.

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 to the Commission for further proceedings.

Counsel

In the proceedings before the Commission, Judge Maney was represented by Joseph M. McCoy, Esq., Corrigan, McCoy & Bush, PLLC, 220 Columbia

Turnpike, Rensselaer, New York 12144, (518) 477-4575.

The Commission was represented by Robert H. Tembeckjian, Esq., Administrator and Counsel to the Commission, and Staff Attorney Charles F. Farcher, Esq. Senior Investigator Donald R. Payette 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, Suite 1200 New York, New York 10006	Corning Tower, Suite 2301 Empire State Plaza Albany, New York 12223	400 Andrews Street Rochester, New York 14604
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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
Joel Cohen, Esq.	Assembly Speaker Sheldon Silver	March 31, 2014
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
Nina M. Moore	Governor David A. Paterson	March 31, 2013
Hon. Karen K. Peters	Governor David A. Paterson	March 31, 2014
Hon. Terry Jane Ruderman	Former Chief Judge Judith S. Kaye	March 31, 2012