



NEW YORK STATE
COMMISSION ON JUDICIAL CONDUCT

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NEWS RELEASE

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One Town Justice in Chenango County Censured, Another Resigns, After Ticket-Fixing Incident

The New York State Commission on Judicial Conduct has determined that one town justice in Chenango County should be censured and another should leave office in connection with a traffic-ticket-fixing incident. David P. Daniels, a Justice of the Guilford Town Court, Chenango County, was censured, and David J. Evans, a Justice of the Norwich Town Court, Chenango County, resigned from office.

The Commission found that Judge Daniels, a part-time judge who is also a school transportation official, improperly intervened on behalf of a co-worker whose traffic ticket was returnable before Judge Evans. Judge Evans was charged, among other things, with granting or appearing to grant special consideration to the defendant in the same case.

“By personally delivering his co-worker’s traffic ticket to the Norwich Town Court, showing a video...to court staff and asking the staff to tell [Judge Evans] of his visit to the court, [Judge Daniels] created the appearance that he was

attempting to obtain favorable treatment for the defendant and lent the clout of his judicial status to advance his co-worker's interests," the Commission said in its determination.

The Commission said that these actions were inconsistent with well-established ethical standards prohibiting a judge from using the prestige of judicial office to further private interests and requiring a judge to avoid even the appearance of impropriety. The Commission noted that following Judge Daniels' intervention in the case, Judge Evans dismissed the defendant's ticket without a plea or appearance by the defendant.

Three Commission members voted that Judge Daniels should be admonished rather than censured. Commission Administrator Robert H. Tembeckjian had recommended that the judge be removed from office.

The determination, stipulation and order can be found on the Commission's website: www.cjc.ny.gov.

The Commission Proceedings

Judge Daniels was served with a Formal Written Complaint dated February 11, 2010, containing one charge, and filed an answer dated March 8, 2010. Judge Evans was served with a Formal Written Complaint dated February 11, 2010, containing four charges, and filed an answer dated April 7, 2010.

The Commission designated Honorable Frank J. Barbaro as referee to hear and report proposed findings of fact and conclusions of law in both matters. A hearing was held in the Daniels matter in Albany on June 21, 2010, and the referee filed a report dated September 13, 2010. A hearing was held in the Evans matter in Albany on July 19, 2010, and the referee filed a report dated December 13, 2010.

With respect to the Daniels matter, the parties submitted briefs in response to the referee's report and the issue of sanction. The Commission heard oral argument on December 8, 2010, and filed a determination dated March 25, 2011.

With respect to the Evans matter, pursuant to a stipulation dated January 19, 2011, Judge Evans resigned from office effective April 1, 2011 and agreed not to seek or accept judicial office in the future. Exhibits to the stipulation included the transcript of the hearing and the report of the referee. The Commission accepted the stipulation, and the matter was closed on March 8, 2011. Under the terms of the stipulation, Judge Evans waived the statutory provision of confidentiality

applicable to Commission proceedings, to the limited extent that the stipulation would be made public.

The Commission Determination in Daniels

The Commission filed a determination dated March 25, 2011. Judge Thomas A. Klonick (the Commission Chair), Judge Rolando T. Acosta, Richard D. Emery, Esq., Elizabeth B. Hubbard, Nina M. Moore, Judge Karen K. Peters and Judge Terry Jane Ruderman concurred.

Stephen R. Coffey, Esq. (the Vice Chair), Joseph W. Belluck, Esq., and Joel Cohen, Esq., dissented only as to the sanction and voted that Judge Daniels be admonished.

Paul B. Harding, Esq., did not participate.

Court of Appeals Review

The Commission transmitted its determination in the Daniels matter 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 Daniels 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

Since 1978, the Commission has issued 292 determinations of censure against judges in New York State. The Commission has also issued 161 determinations of removal and 240 determinations of admonition. The Commission has accepted 33 stipulations since the procedure was instituted in 2003.

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 Daniels was represented by Scott Clippinger, Esq., Clippinger Law Offices, P.O. Box 272, Smyrna, New York 13463, (607) 627-6811.

Judge Evans was represented by David E. Sonn, Esq., 72 South Main Street, P.O. Box 408, Earlville, New York 13332, (315) 691-9849.

The Commission was represented in both matters by Mr. Tembeckjian and former Staff Attorney Charles Farcher, Esq. Investigator Ryan T. Fitzpatrick assisted in the investigation in both matters.

Members of the Commission

The Commission members serve four-year terms. The members are listed below.

The Public Files

The determination and stipulation and order are attached. The records of the proceedings are 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

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.	Former 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	Former Governor David A. Paterson	March 31, 2011
Nina M. Moore	Former Governor David A. Paterson	March 31, 2013
Hon. Karen K. Peters	Former Governor David A. Paterson	March 31, 2014
Hon. Terry Jane Ruderman	Former Chief Judge Judith S. Kaye	March 31, 2012