



NEW YORK STATE
COMMISSION ON JUDICIAL CONDUCT

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NEWS RELEASE

FOR RELEASE February 15, 2012

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Dutchess County Village Court Justice Censured for Driving While Intoxicated

The New York State Commission on Judicial Conduct has determined that Robert P. Apple, a Justice of the Pawling Village Court, Dutchess County, should be censured for driving after consuming alcohol in excess of the legal limit, resulting in a minor accident and his conviction for Driving While Intoxicated.

“[Judge Apple] violated his ethical obligation to respect and comply with the law and endangered public safety,” the Commission said in its determination. “Such conduct is inconsistent with a judge’s obligation to maintain high standards of conduct at all times, both on and off the bench.”

In determining the appropriate disposition, the Commission said that in prior cases involving alcohol-related driving offenses it has considered mitigating and/or aggravating circumstances, including the “level of intoxication, whether the judge’s conduct caused an accident or injury, whether the conduct was an isolated instance or part of a pattern, whether the judge was cooperative during arrest, whether the judge asserted his or her judicial office and sought special treatment,

and the need and willingness of the judge to seek treatment.” In this case, the Commission noted that there was no indication that Judge Apple attempted to secure favorable treatment by invoking his judicial office and that he has sought “preventative counseling” and attends Alcoholics Anonymous meetings.

Judge Apple has been a judge since 1991. His current term expires on December 6, 2013. He is an attorney and has been self-employed in the private practice of law for approximately 20 years.

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

The Commission Proceedings

Judge Apple was served with a Formal Written Complaint dated October 25, 2011, containing one charge, and filed an answer dated December 13, 2011.

On January 17, 2012, the Administrator of the Commission and Judge Apple entered into an Agreed Statement of Facts, stipulating as to the facts and sanction and waiving further submissions and oral argument.

The Commission accepted the Agreed Statement on January 26, 2012.

The Commission Determination

The Commission filed a determination dated January 31, 2012. Judge Thomas A. Klönick (the Commission Chair), Judge Terry Jane Ruderman (the Vice Chair), Judge Rolando T. Acosta, Joseph W. Belluck, Esq., Joel Cohen, Esq., Richard D. Emery, Esq., Paul B. Harding, Esq., Nina M. Moore, Judge Karen K. Peters and Richard A. Stoloff, Esq., concurred.

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 Apple 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 297 determinations of censure against judges in New York State. The Commission has issued 164 determinations of removal and 244 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. One request for review is pending.

Counsel

In the proceedings before the Commission, Judge Apple represented himself.

The Commission was represented by Robert H. Tembeckjian, Administrator and Counsel to the Commission, and Senior Attorney Roger J. Schwarz. Investigator Frank DeBiase 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 Suite 700 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
Hon. Terry Jane Ruderman, Vice Chair	Former Chief Judge Judith S. Kaye	March 31, 2012
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
Nina M. Moore	Former Governor David A. Paterson	March 31, 2013
Hon. Karen K. Peters	Former Governor David A. Paterson	March 31, 2014
Richard A. Stoloff, Esq.	Senate President Pro Tem Dean Skelos	March 31, 2015
Vacant	Governor	March 31, 2015