



NEW YORK STATE  
COMMISSION ON JUDICIAL CONDUCT

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## NEWS RELEASE

*August 22, 2012*

**Contact:**

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### **Former Onondaga County Family Court Judge Removed for Sexual Misconduct with His 5-Year-Old Niece before Becoming a Judge**

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The New York State Commission on Judicial Conduct has determined that Judge Bryan R. Hedges, until recently a Judge of the Family Court, Onondaga County, should be removed from office for having engaged in a sexual encounter with a 5-year-old child, before he was a judge.

The sexual encounter, which occurred in 1972 but came to light in 2012, involved Hedges (who was 25 years old at the time) and his niece, who was then 5 years old, deaf and unable to communicate. (The now-45-year-old niece is still deaf but among other things communicates via sign language and writing.)

While Hedges and his niece disagreed as to certain details, he conceded in a recent recorded conversation with his niece's mother that the sexual encounter took place, and he called his behavior "abhorrent," "totally wrong," "indefensible" and "very, very, very bad."

Hedges did not tell anyone about the episode for years. When the victim began talking about it in rudimentary terms 10 years later, and Hedges was asked at various times by her father what had happened, he said only that his niece had come into the room while he was masturbating. It was not until 2012 that the full story was revealed.

The Commission's determination states as follows:

"The nature of respondent's conduct involving an admitted sexual act with a defenseless child is abhorrent and not attenuated by the passage of time. It thus reflects adversely on his fitness to perform the duties of a judge and is prejudicial to the administration of justice notwithstanding that it predates his ascension to the bench."

### **THE COURSE OF PROCEEDINGS AT THE COMMISSION**

#### **Referral of the Matter to the Commission**

In March 2012, after learning of the sexual encounter and determining that the statute of limitations for criminal prosecution had expired, the District Attorney of Onondaga County, William J. Fitzpatrick, referred the matter to the Commission.

#### **Judge's Resignation; Formal Disciplinary Complaint**

In April 2012, after being advised by the Commission that he was under investigation, Judge Hedges promptly resigned from office and filed for retirement.<sup>1</sup>

In May 2012, the Commission authorized a formal disciplinary complaint against Judge Hedges. Under New York law, the Commission's jurisdiction extends 120 days following a judge's resignation, in which time the Commission may determine to remove the judge. Removal disqualifies a judge from ever serving on the bench again.

The Commission's Administrator drew and served a Formal Written Complaint against the judge dated May 3, 2012, containing one charge of misconduct regarding the 1972 sexual encounter.

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<sup>1</sup> Hedges served as an Onondaga County Family Court Judge from 1985 through the effective date of his resignation, April 25, 2012. His current term of office would otherwise have expired on December 31, 2014.

### **The Hearing and the Referee's Report**

In June 2012, a disciplinary hearing was held before a Referee designated by the Commission. Such hearings are confidential pursuant to statute, unless the respondent-judge waives confidentiality. Judge Hedges did not waive.

The Referee was William T. Easton, a principal in the Rochester law firm of Easton Thompson Kasperek Schiffrin. Mr. Easton previously served as Supervising Attorney in the Rochester Regional Office of the New York State Capital Defender Office. The hearing was held in Syracuse. Deputy Administrator John J. Postel and Senior Attorney David M. Duguay tried the case. Robert F. Julian represented Judge Hedges. (See below for contact information.)

The Referee submitted a report to the Commission dated July 23, 2012, recommending that the formal disciplinary complaint against Judge Hedges be sustained. The Referee found that the now-adult victim testified credibly and accurately as to the sexual encounter.<sup>2</sup>

### **Oral Argument before the Full Commission**

On August 8, 2012, after submitting briefs, the Commission's Administrator (Robert H. Tembeckjian) and Judge Hedges' attorney (Robert F. Julian) appeared for oral argument before the Commission in New York City. Mr. Tembeckjian recommended that Judge Hedges be removed from office. Mr. Julian recommended that the charge be dismissed. Thereafter, the Commission deliberated in executive session.

### **The Commission Determination**

As prescribed by law, the Commission filed a determination with the Chief Judge of the Court of Appeals, dated August 17, 2012, that Judge Hedges should be removed from office. Judge Hedges was served with the determination on the afternoon of August 21, 2012, and by operation of law the determination and record of Commission proceedings became public.

The vote to remove was 7-2. Judges Thomas A. Klonick (Chair), Terry Jane Ruderman (Vice Chair), Rolando T. Acosta and Karen K. Peters, and attorneys

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<sup>2</sup> The victim testified that her uncle motioned her to his bed and put her hand directly on his penis as he masturbated. Judge Hedges' said he did not motion her to his bed and that her hand was on his hand as he masturbated. The Referee credited the victim's version. The Commission determined that even the judge's version was egregious and warranted his removal from office.

Joseph W. Belluck, Richard T. Emery and Richard A. Stoloff, voted for removal. Mr. Belluck wrote a concurring opinion which Mr. Emery joined.

Attorneys Joel Cohen and Paul B. Harding dissented and would have accepted Judge Hedges' resignation with no further action, on his agreement that the record of this proceeding would become public if he ever returned to judicial office or held some other position of public trust.

Commission Member Nina M. Moore did not participate. There is one vacancy on the 11-member Commission.

The determination and related documents – such as the original complaint, the formal charges, the hearing transcript and the referee's report – can be found on the Commission's website: [www.cjc.ny.gov](http://www.cjc.ny.gov).

### **Statement by Commission Administrator Robert H. Tembeckjian**

“It is not common to remove a judge for behavior that occurred years before taking the bench. But sexual misconduct with a child is so egregious that, even if it comes to light decades later, it must be addressed. An act of such moral turpitude undermines the integrity of the judiciary and disqualifies the perpetrator from being a judge.

“With this decision, the Commission makes public a horrible 40-year secret that, had it been known, would likely have prevented Mr. Hedges from being a judge in the first place. Removal from office insures that he will never return to the bench, delivers some measure of justice to the victim, and sends an important message to the public that the integrity of the judiciary will be protected.”

### **Identity of the Victim**

Consistent with past practice, the Commission redacted the name of the victim from the record, referring to her as “E.” However, the Commission has been notified in writing by the victim that she wishes to be identified. Her name is Ellen Cantwell Warner, and she provided the following contact information:

Ellen Cantwell Warner  
c/o Randi Bregman, Executive Director  
Vera House, Inc.  
6181 Thompson Road, Suite 100  
Syracuse, NY 13206  
Phone: (315) 425-0818; TTY: (315) 484-7263ty

**Press Availability**

Mr. Tembeckjian is traveling from Albany to Rochester on Wednesday August 22, 2012, and may be reached at (518) 453-4600 or by cell phone at (917) 887-3207. Mr. Tembeckjian will be in Syracuse on Thursday August 23, 2012, and will be available to answer inquiries at 11:00 AM at Vera House, 6181 Thompson Road, Syracuse, New York 13206. Phone: (315) 425-0818; TTY: (315) 484-7263.

Ms. Warner advises that she will be present at Vera House in Syracuse on Thursday to make a public statement.

**ADDITIONAL INFORMATION****Court of Appeals Review**

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 Hedges does not request review by the Court of Appeals, the Court of Appeals will remove him in accordance with the determination.

If the Commission's determination is reviewed by the Court of Appeals, the Court may accept or reject the determined sanction, impose a different sanction or impose no sanction.

**Counsel**

In the proceedings before the Commission, Judge Hedges was represented by Robert F. Julian, 2713 Genesee St, Utica, NY 13501. (315) 797-5610.

The Commission was represented by Robert H. Tembeckjian, Administrator and Counsel to the Commission, John J. Postel, Deputy Administrator in Charge of the Rochester office, and Senior Attorney David M. Duguay. Senior Investigator Rebecca Roberts assisted in the investigation. Deputy Administrator for Litigation Edward Lindner and Administrative Counsel Mary Farrington assisted on the briefs. Several members of the administrative staff assisted in such tasks as preparing transcripts, electronically scanning documents and recording the oral argument: Amy Carpinello, Linda Dumas, Richard Keating, Linda Pascarella, Magenta Ranero, Lisa Savaria, Terry Miller Scipioni and Letitia Walsh.

**Statistics Relating to Prior Determinations**

Since 1978, the Commission has issued 166 determinations of removal against judges in New York State. The Commission has issued 299 determinations of censure and 244 determinations of admonition.

The Court of Appeals has reviewed 92 Commission determinations. The Court accepted the Commission's sanctions in 76 cases (67 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: nine 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.

**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**

<b>Member</b>	<b>Appointing Authority</b>	<b>Term End</b>
Hon. Thomas A. Klonick, Chair	Chief Judge Jonathan Lippman	March 31, 2013
Hon. Terry Jane Ruderman, Vice Chair	Chief Judge Jonathan Lippman	March 31, 2016
Hon. Rolando T. Acosta	Chief Judge Jonathan Lippman	March 31, 2014
Joseph W. Belluck, Esq.	Governor Andrew M. Cuomo	March 31, 2016
Joel Cohen, Esq.	Assembly Speaker Sheldon Silver	March 31, 2014
Richard D. Emery, Esq.	Senate Minority Leader John L. Sampson	March 31, 2016
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