



NEW YORK STATE
COMMISSION ON JUDICIAL CONDUCT

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NEWS RELEASE

November 13, 2015

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Ontario County Town Court Justice Should Be Censured for Unlawfully Ordering Evictions in Two Cases

The New York State Commission on Judicial Conduct has determined that Edwin R. Williams, a Justice of the Manchester Town Court, Ontario County, should be censured for failing to respect and be professionally competent in the law by improperly issuing warrants of eviction in two cases.

Judge Williams agreed to the censure.

Between 2012 and 2013, Judge Williams presided over two summary eviction proceedings in which he issued warrants of eviction and money judgments without according the tenants an opportunity to be heard or adequately reviewing the supporting documents. Compounding the misconduct, the judge also failed to mechanically record two other eviction proceedings.

In its determination the Commission stated: “The issuance of an eviction warrant is a significant exercise of discretion. The fact that a tenant is facing the potential loss of his/her home places a special burden on a judge to make sure that the statutory requirements are met.”

The Commission wrote, “In [one case], [the judge] failed to hold a hearing, ignored the tenants’ attorney’s argument that they had not been served with a petition, and did not adequately review the court file, which supported the tenants’ defenses that they had not been properly served.” While the tenants acknowledged that they owed the amount of money at issue, and had defaulted on an existing payment plan, “they were entitled to, and did not receive, the full protections afforded by law.”

In another case the judge interrupted the tenant when she objected to the eviction and would not hear her defense that she had not been properly served with a 30-day notice as required by law. It was the judge’s “understanding that the tenant acknowledged owing the rent, and he did not understand that she had an objection, which she stated as she walked away from the bench.”

The Commission found that the judge’s actions in both matters “resulted in proceedings that were lacking in fundamental fairness.”

Judge Williams, who is not an attorney, has served as a Justice of the Manchester Town Court since 1971. His current term expires on December 31, 2017.

The Commission Proceedings

Judge Williams was served with a Formal Written Complaint dated March 13, 2015, containing one charge, and entered an Agreed Statement of Facts in lieu of filing an Answer.

On July 15, 2015, the Administrator of the Commission, and Judge Williams and Judge Williams’ attorney 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 August 6, 2015.

The Commission Determination

The Commission filed a determination dated November 2, 2015, in which six members concurred: Judge Thomas A. Klonick (the Commission Chair), Judge Terry Jane Ruderman (the Vice Chair), Judge Rolando T. Acosta, Jodie Corngold, Richard D. Emery, Esq., and Paul B. Harding, Esq.

One member, Judge David A. Weinstein, filed a dissenting opinion, in which Joseph W. Belluck, Esq., and Richard A. Stoloff, Esq., joined, voting to reject the Agreed Statement on the basis that the sanction was too harsh.

One member, Joel Cohen, Esq., was not present. There is currently one vacancy on the 11-member Commission.

Statement by Commission Administrator

Commission Administrator Robert H. Tembeckjian made the following statement.

“A judge is obliged to respect and be professionally competent in the law, which among other things means according all litigants their fundamental rights, particularly where such important consequences such as eviction are at stake. Judge Williams candidly acknowledged a shortcoming in the two cases at issue here, and we appreciate his resolve to avoid such lapses in the future.”

Press Availability

Mr. Tembeckjian is available throughout the day by telephone: (646) 386-4800.

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. Judge Williams received it on November 7, 2015, and the Commission was subsequently notified by the Court of Appeals that service was complete. Consequently, the matter is now public.

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 Williams does not request review by the Court of Appeals, the Commission will censure him in accordance with the determination.

If a Commission 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 314 determinations of censure against judges in New York State. The Commission has issued 258 determinations of admonition and 168 determinations of removal.

The Court of Appeals has reviewed 95 Commission determinations. The Court accepted the Commission's sanctions in 79 cases (70 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.

Counsel

In the proceedings before the Commission, Judge Williams was represented by John E. Tyo of Zimmerman & Tyo, 6 East Main Street, Shortsville, New York 14548, (585) 289-4040.

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 M. Kathleen Martin. Investigator Betsy Sampson assisted in the investigation.

Background Information on Judge Williams

First took office:	1971
Current Term Expires:	December 31, 2017

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, 2017
Hon. Terry Jane Ruderman, Vice Chair	Chief Judge Jonathan Lippman	March 31, 2016
Hon. Rolando T. Acosta	Chief Judge Jonathan Lippman	March 31, 2018
Joseph W. Belluck, Esq.	Governor Andrew M. Cuomo	March 31, 2016
Joel Cohen, Esq.	Former Assembly Speaker Sheldon Silver	March 31, 2018
Jodie Corngold	Governor Andrew M. Cuomo	March 31, 2019
Richard D. Emery, Esq.	Former Senate Minority Leader John L. Sampson	March 31, 2016
Paul B. Harding, Esq.	Former Assembly Minority Leader James Tedisco	March 31, 2017
Richard A. Stoloff, Esq.	Former Senate President Pro Tem Dean Skelos	March 31, 2019
Hon. David A. Weinstein	Governor Andrew M. Cuomo	March 31, 2018
Vacant	Governor	March 31, 2017