



NEW YORK STATE
COMMISSION ON JUDICIAL CONDUCT

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NEWS RELEASE

March 27, 2017

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New York State Supreme Court Justice Should Be Censured For Publicly Commenting on a Pending Case and Threatening to Handcuff and Jail a Prosecutor

The New York State Commission on Judicial Conduct has determined that James J. Piampiano, a Justice of the Supreme Court, Monroe County, should be censured for making public comments on a pending case, and for threatening to handcuff and jail a prosecutor for attempting to address him when he granted a defense motion to dismiss a murder charge.

A censure is a strong public reprimand. Judge Piampiano agreed to the censure.

In 2015, while presiding in County Court over the murder trial in *People v Charles J. Tan*, Judge Piampiano gave three separate media interviews during which he made prohibited public comments about the case.

In its determination the Commission stated: “Although [Judge Piampiano’s] comments indicate[d] that he was aware of the ethical prohibition (at one point he stated, ‘I’m not at liberty to discuss the prosecutor’s remarks or this case in particular’)...he granted three one-on-one media interviews in which he proceeded to discuss the case at length.”

Judge Piampiano discussed legal issues in the case and described the defendant as a “sympathetic” figure, a statement that the Commission found “especially troubling.” The Commission stated that the judge’s comment “could convey an appearance that [the judge] viewed the defendant sympathetically, raising doubts about his impartiality and thus undermining public confidence in the impartial administration of justice.”

The Commission noted that it was also improper during a post-trial proceeding to threaten to have the prosecutor placed in handcuffs and put in jail when the attorney asked to speak as Judge Piampiano was announcing his decision on the defense motion to dismiss. The Commission called the judge’s language a “substantial overreaction to the attorney’s conduct.”

Judge Piampiano has served as a Justice of the Supreme Court since 2016. His current term expires on December 31, 2029.¹

The Commission Proceedings

Judge Piampiano was served with a Formal Written Complaint dated November 2, 2016, containing two charges.

On February 15, 2017, the Administrator of the Commission, Judge Piampiano and Judge Piampiano’s 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 March 9, 2017.

The Commission Determination

The Commission filed a determination dated December 28, 2016, in which ten members concurred: Paul B. Harding, Esq. (the Vice Chair), Judge Rolando Acosta, Joel Cohen, Esq., Jodie Corngold, Richard D. Emery, Esq., Judge Thomas A. Klonick, Judge Leslie G. Leach, Richard A. Stoloff, Esq., Judge David A. Weinstein and Akosua Garcia Yeboah.

One member, Joseph W. Belluck, Esq. (the Commission Chair), was not present.

¹ The judge was serving as a Judge of the Monroe County Court when the misconduct occurred. He had served as a Monroe County Court Judge from 2011 to 2015.

Statement by Commission Administrator

Commission Administrator Robert H. Tembeckjian made the following statement.

As to the threat to handcuff and jail a prosecutor:

“It was wrong for Judge Piampiano to threaten to punish a lawyer for trying to address the court on an important motion. To his credit, Judge Piampiano acknowledged and accepted responsibility for his conduct.”

As to the public comments about a case:

“What a judge says in court is rightfully public and available to report. But a judge must not undermine public confidence in the judiciary by making public comments off the bench on the merits of pending or impending cases. A judge must avoid even the appearance of deciding a matter before the trial or appellate record is complete. Here again, to his credit, Judge Piampiano acknowledged and accepted responsibility for his behavior.”

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 Piampiano received it on March 20, 2017, 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 Piampiano 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 318 determinations of censure against judges in New York State. The Commission has issued 169 determinations of removal and 266 determinations of admonition.

The Court of Appeals has reviewed 96 Commission determinations. The Court accepted the Commission's sanctions in 80 cases (71 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 Piampiano was represented by John F. Speranza, Esq., 1800 First Federal Plaza, 28 East Main Street, Rochester, New York 14614, (585) 454-1500.

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. Investigator Vanessa Mangan assisted in the investigation.

Background Information on Judge Piampiano

First took office (Supreme Court):	2016
Current Term Expires:	December 31, 2029
Year Admitted to NYS Bar:	1978
Prior Judicial Office:	Monroe County Court Judge- 2011-2015 Henrietta Town Court Justice – 2008-2010

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
Joseph W. Belluck, Esq., Chair	Governor Andrew M. Cuomo	March 31, 2020
Paul B. Harding, Esq., Vice Chair	Assembly Minority Leader Brian M. Kolb	March 31, 2021
Hon. Rolando T. Acosta	Former Chief Judge Jonathan Lippman	March 31, 2018
Joel Cohen, Esq.	Former Assembly Speaker Sheldon Silver	March 31, 2018
Jodie Corngold	Governor Andrew M. Cuomo	March 31, 2019
Taa R. Grays, Esq. ²	Senate Minority Leader Andrea Stewart-Cousins	March 31, 2020
Hon. Thomas A. Klonick	Former Chief Judge Jonathan Lippman	March 31, 2017
Hon. Leslie G. Leach	Chief Judge Janet DiFiore	March 31, 2020
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
Akosua Garcia Yeboah	Governor Andrew M. Cuomo	March 31, 2021

² When the determination in this matter was filed on March 13, 2017, Richard D. Emery, Esq. was a member of the Commission. He has since been succeeded by Ms. Grays.