



NEW YORK STATE
COMMISSION ON JUDICIAL CONDUCT

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NEWS RELEASE

March 30, 2017

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Oneida County Town Court Justice Should be Censured for Helping a Defendant in a Traffic Case Before Another Judge

The New York State Commission on Judicial Conduct has determined that Daniel P. Sullivan, a Justice of the Whitestown Town Court, Oneida County, should be censured for using his judicial title on behalf of a defendant appearing before another judge on a traffic charge.

Censure is a strong public reprimand. This is the Commission's second censure determination against Judge Sullivan.

In 2015, Judge Sullivan "notarized" and added his judicial title to a letter to the judge of another court, concerning a speeding ticket issued to the son of the judge's acquaintance. Judge Sullivan is not a notary.

The Commission stated that: "By signing his name and judicial title beneath a defendant's signature on a letter to the Oxford Village Court, [Judge Sullivan] added his judicial clout and imprimatur to the defendant's request to change his plea, from not guilty to guilty." The Commission noted that witnessing the signature on the letter to another court would have been improper regardless of whether or not the judge was a notary. However, the Commission concluded that

the judge witnessed the letter only because he thought he was empowered to do so, and was not “intentionally asserting his judicial status to advance the defendant’s interests.” The Commission stated that when the judge signed and affixed his judicial title to the letter, he “sincerely, but erroneously” believed he was “exercising notarial powers that were inherent in his position...relying in good faith upon the erroneous advice” of another judge.

In determining the appropriate sanction, the Commission noted that the judge was censured by the Commission last year and that at the time of this conduct, he should have been “especially sensitive to his ethical obligations” since he knew was under investigation in the earlier matter.

Judge Sullivan, who is not an attorney, has served as a Justice of the Whitestown Town Court since 2012. His current term expires on December 31, 2019.

The Commission Proceedings

Judge Sullivan was served with a Formal Written Complaint dated February 11, 2016, containing one charge, and filed an answer dated March 7, 2016.

The Commission designated David M. Garber, Esq., as referee to hear and report proposed findings of fact and conclusions of law. A hearing was held on June 18, 2016, in Albany. The referee filed a report dated November 8, 2016.

The parties submitted briefs with respect to the referee’s report and the issue of sanctions. The Commission’s Administrator recommended the sanction of removal, and the judge’s counsel argued that if misconduct was found, removal was too harsh. On January 26, 2017, the Commission heard oral argument.

The Commission Determination

The Commission filed a determination dated March 13, 2017, in which nine members concurred: Joseph W. Belluck, Esq. (the Commission Chair), Paul B. Harding, Esq. (the Vice Chair), Judge Rolando Acosta, Joel Cohen, Esq., Jodie Corngold, Judge Leslie G. Leach, Richard A. Stoloff, Esq., Judge David A. Weinstein and Akosua Garcia Yeboah.

Two members, Richard D. Emery, Esq., and Judge Thomas A. Klonick dissented and voted that the judge should be removed from office. Mr. Emery filed an opinion, in which Judge Klonick joined.

Prior Discipline

Judge Sullivan was previously censured by the Commission in 2015 for lending the prestige of his judicial office to advance his son's private interests with respect to pending criminal charges.

Statement by Commission Administrator

Commission Administrator Robert H. Tembeckjian made the following statement.

“Having now been given a third chance by the Commission to stop lending the prestige of his judicial office to advance the private interests of others, I hope Judge Sullivan takes greater care to meet his obligations under the judicial code of conduct.”

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 Sullivan received it on March 27, 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 Sullivan 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 319 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 Sullivan was represented by Robert F. Julian, Esq., 2037 Genesee Street, Utica, New York 13501, (315) 797-5610.

The Commission was represented by Robert H. Tembeckjian, Administrator and Counsel to the Commission; Cathleen S. Cenci, Deputy Administrator in Charge of the Albany office; and Senior Attorney Thea Hoeth. Senior Investigator Ryan Fitzpatrick assisted in the investigation.

Background Information on Judge Sullivan

First took office:	2012
Current Term Expires:	December 31, 2019

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. ¹	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

¹ 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.