



NEW YORK STATE
COMMISSION ON JUDICIAL CONDUCT

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NEWS RELEASE

July 1, 2020

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Town Court Justice in Delaware County Should Be Censured for Improper Comments and Appearing Biased

The New York State Commission on Judicial Conduct has determined that Wayne R. Pebler, a Justice of the Roxbury Town Court, Delaware County, should be censured for engaging in *ex parte* communications about a defendant, publicly commenting about charges pending against the defendant and appearing biased against him.

Judge Pebler agreed to the censure.

On three occasions Judge Pebler made comments about a defendant against whom charges were pending both in his and another town court. The judge (1) told a man in his courtroom that the defendant was a “convict” with two prior felony convictions and described in detail the charges pending against him, (2) told another defendant and that defendant’s mother that the defendant would be going to federal prison and (3) made comments about the defendant’s alleged drug use despite the fact that the defendant had no narcotics-related charges pending in his court.

In its determination the Commission stated that the judge “undermined public confidence in the fairness and impartiality of the judiciary.”

July 1, 2020

Prior Caution

In 2009, Judge Pebler was privately cautioned by the Commission after he engaged in unauthorized *ex parte* communications with each party and a non-party, in a connection with a small claims matter.

The Commission found that the judge's prior caution "exacerbated" his misconduct.

Judge Pebler, who is not an attorney, has served as a Justice of the Roxbury Town Court since 2002. His current term expires on December 31, 2021.

Statement by Commission Administrator

Commission Administrator Robert H. Tembeckjian made the following statement.

"The courts must be and appear fair and impartial. For a judge to disparage a defendant in public conversation, prior to the adjudication of the case, undermines public confidence in the administration of justice."

The Commission Proceedings

Judge Pebler was served with a Formal Written Complaint dated March 27, 2020, containing one charge and filed an Answer dated May 6, 2020.

On June 1, 2020, the Administrator of the Commission, Judge Pebler and his attorney entered into an Agreed Statement of Facts, stipulating to the facts and sanction and waiving further submissions and oral argument.

The Commission accepted the Agreed Statement on June 11, 2020.

The Commission Determination

The Commission filed a determination dated June 17, 2020, in which ten members concurred: Joseph W. Belluck, Esq. (the Commission Chair), Taa Grays, Esq. (the Vice Chair), Jodie Corngold, Judge John A. Falk, Paul B. Harding, Esq., Judge Leslie G. Leach, Judge Angela M. Mazzarelli, Judge Robert J. Miller, Marvin Ray Raskin, Esq., and Ronald J. Rosenberg, Esq.

One member, Akosua Garcia Yeboah did not participate.

*July 1, 2020***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 Pebler received it on June 26, 2020, 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 Pebler 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 334 determinations of censure against judges in New York State. The Commission has issued 175 determinations of removal and 273 determinations of admonition.

The Court of Appeals has reviewed 100 Commission determinations. The Court accepted the Commission's sanctions in 84 cases (75 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. One request for review is pending.

Counsel

In the proceedings before the Commission, Judge Pebler was represented by Kristin Laviolette Pratt, of Young/Sommer LLC, Executive Woods, Five Palisades Drive, Albany, New York 12205, (518) 438-9907.

The Commission was represented by Robert H. Tembeckjian, Administrator and Counsel to the Commission; Cathleen S. Cenci, Deputy Administrator in Charge

July 1, 2020

of the Albany office; and, Senior Attorney S. Peter Pedrotty. Investigator Laura Misjak was assigned to the case.

Background Information on Judge Pebler

First took office: 2002
Current Term Expires: December 31, 2021

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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*July 1, 2020***MEMBERS OF THE STATE COMMISSION ON JUDICIAL CONDUCT**

Member	Appointing Authority	Term End
Joseph W. Belluck, Esq., Chair	Governor Andrew M. Cuomo	March 31, 2024
Taa Grays, Esq., Vice Chair	Senate President Pro Tem Andrea Stewart-Cousins	March 31, 2023
Jodie Corngold	Governor Andrew M. Cuomo	March 31, 2023
Hon. John A. Falk	Chief Judge Janet DiFiore	March 31, 2021
Paul B. Harding, Esq.	Former Assembly Minority Leader Brian M. Kolb	March 31, 2021
Hon. Leslie G. Leach	Chief Judge Janet DiFiore	March 31, 2024
Hon. Angela M. Mazzarelli	Chief Judge Janet DiFiore	March 31, 2022
Hon. Robert J. Miller	Governor Andrew M. Cuomo	March 31, 2022
Marvin Ray Raskin, Esq.	Assembly Speaker Carl E. Heastie	March 31, 2022
Ronald J. Rosenberg, Esq.	Senate Minority Leader John J. Flanagan	March 31, 2024
Akosua Garcia Yeboah	Governor Andrew M. Cuomo	March 31, 2021