



NEW YORK STATE
COMMISSION ON JUDICIAL CONDUCT

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NEWS RELEASE

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Ontario County Town Justice Should Be Admonished for Making Inappropriate Facebook Posts

The New York State Commission on Judicial Conduct has determined that John R. Peck, a Justice of the Gorham Town Court, Ontario County, should be admonished for publishing public Facebook posts in which he appeared in a police uniform and expressed his appreciation for law enforcement officers.

Judge Peck agreed to the admonition.

In July 2020, Judge Peck, a retired law enforcement officer:

- expressed appreciation and strong support on Facebook for members of law enforcement, which he called the “noblest of professions” in connection with a “Back the Blue” event; and
- posted a photo of himself wearing a police uniform.¹

Judge Peck’s Facebook settings were public and his post and photos garnered hundreds of “likes” and many comments, including one that identified him as “Judge!”

¹ The Agreed Statement of Facts also noted that the judge posted a photo of himself wearing a police uniform as his Facebook “Cover Photo” in November 2018.

Prior Caution

In April 2019, the Commission privately cautioned the judge for posting to Facebook an improper public political comment in which he was critical of a candidate in an election for county sheriff.

The Commission found that the judge's public Facebook post "casts doubt on [the judge's] ability to act impartially when he presided over matters which involved law enforcement personnel." The Commission noted that the judge's prior caution involving inappropriate Facebook comments should have made the judge "circumspect and particularly attentive" to his ethical obligations.

Judge Peck, who is not an attorney, has been a Justice of the Gorham Town Court since 2018. His current term expires on December 31, 2021.

Statement by Commission Administrator

Commission Administrator Robert H. Tembeckjian made the following statement.

"A judge must be and appear impartial. Identifying himself with the police, publicly and in uniform on Facebook, undermined public confidence in Judge Peck's impartiality, which to his credit he promptly acknowledged and remedied."

The Commission Proceedings

Judge Peck was served with a Formal Written Complaint dated January 14, 2021, containing one charge.

On February 22, 2021, the Administrator of the Commission and Judge Peck 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 March 11, 2021.

The Commission Determination

The Commission filed a determination dated March 19, 2021, in which all eleven members concurred: Joseph W. Belluck, Esq. (the Commission Chair), Taa Grays, Esq. (the Vice Chair), Jodie Corngold, Judge Fernando M. Camacho, Judge John A. Falk, Paul B. Harding, Esq., Judge Angela M. Mazzarelli, Judge Robert J.

Miller, Marvin Ray Raskin, Esq., Ronald J. Rosenberg, Esq., and Akosua Garcia Yeboah.

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. The Commission was notified on March 26, 2021, that Judge Peck had received the determination. 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 Peck does not request review by the Court of Appeals, the Commission will admonish 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 277 determinations of admonition against judges in New York State. The Commission has issued 175 determinations of removal and 338 determinations of censure.

The Court of Appeals has reviewed 101 Commission determinations. The Court accepted the Commission's sanctions in 85 cases (76 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

Judge Peck represented himself.

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 Betsy Sampson was assigned to the case.

Background Information on Judge Peck

Current Term Began:	2018
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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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
Hon. Fernando M. Camacho	Chief Judge Janet DiFiore	March 31, 2024
Jodie Corngold	Governor Andrew M. Cuomo	March 31, 2023
Hon. John A. Falk	Chief Judge Janet DiFiore	March 31, 2025
Paul B. Harding, Esq.	Former Assembly Minority Leader Brian M. Kolb	March 31, 2021
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.	Former Senate Minority Leader John J. Flanagan	March 31, 2024
Akosua Garcia Yeboah	Governor Andrew M. Cuomo	March 31, 2021