STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

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In the Matter of the Proceeding
Pursuant to Section 44, subdivision 4,
of the Judiciary Law in Relation to

WILLIAM EDWARDS,

a Judge of the Mount Vernon City Court,
Westchester County.

DETERMINATION

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THE COMMISSION:

Joseph W. Belluck, Esq., Chair
Paul B. Harding, Esq., Vice Chair
Jodie Corngold
Honorable John A. Falk
Taa Grays, Esq.
Honorable Leslie G. Leach
Honorable Angela M. Mazzarelli
Honorable Robert J. Miller
Marvin Ray Raskin, Esq.
Akosua Garcia Yeboah

APPEARANCES:

Robert H. Tembeckjian (Mark Levine and Brenda Correa, Of Counsel), for the Commission

The Bellantoni Law Firm, PLLC (by Amy L. Bellantoni) for respondent

Respondent, William Edwards, a Judge of the Mount Vernon City Court, Westchester County, was served with a Formal Written Complaint dated June 15, 2018, containing one charge. Respondent filed an Answer dated August 3, 2018. The Formal

Written Complaint alleged that from November 5, 2015 to April 7, 2016, notwithstanding that, as a full-time City Court judge, he was prohibited from practicing law, respondent appeared and acted as his daughter's attorney in a Family Court matter on three occasions and lent the prestige of his judicial office to advance the private interests of another by invoking his judicial title in several instances during his court appearances on November 5, 2015 and March 2, 2016.

On September 4, 2019, the Administrator, respondent's counsel and respondent entered into an Agreed Statement of Facts pursuant to Section 44, subdivision 5, of the Judiciary Law, stipulating that the Commission make its determination based upon the agreed facts, recommending that respondent be censured and waiving further submissions and oral argument.

On December 5, 2019, the Commission accepted the Agreed Statement and made the following determination:

1. Respondent was admitted to the practice of law in New York in 1984. He has been a Judge of the Mount Vernon City Court, Westchester County, since January 2003. Respondent's current term expires December 31, 2023.

2. At all times relevant to this proceeding, respondent was a full-time judge of the Mount Vernon City Court.

Family Court Proceeding on November 5, 2015

3. On November 5, 2015, respondent appeared in Family Court, Albany County, and acted as the attorney for his daughter, Ms. H[redacted]. E[redacted], who was the respondent in a matter before the court.

4. The petitioner, Mr. H[redacted] C[redacted], did not appear for the proceeding on November 5, 2015.

5. During his appearance in court on November 5, 2015, respondent invoked his judicial office in four instances, stating:

A. "Now I have to state that I happen to be a sitting – I'm not looking for any favoritism – I'm a [s]tate court judge. I sat in Family Court for five years, I'm thirteen years on the bench, sitting in Mount Vernon, New York."

B. "I'm very active, the City Court judge in Mount Vernon, we have a large number of cases, murders, everything else. I've been in Family Court for five years. I appreciate the experience that you go through as a Family Court judge but this is nonsensical."

C. "If not, I would suggest, and I'm imploring the Court that they dismiss these allegations and dismiss the charges, these specific charges on those dates, with prejudice so she doesn't have to come back here again and have me come back here because I'm gonna defend my kid – I can't represent people as you know as a judge, but I can represent family members. So I'll come here and defend this zealously if I have to."

D. "But again, sometimes, as you know, I've sat in Family Court for five years. I think I have a long experience in dealing with these cases, that sometimes somebody who's bringing you to court because they want to see your face or put you through whatever trauma."

6. Respondent made an oral application for dismissal and the court dismissed the petition against respondent's daughter, with prejudice.

Family Court Proceeding on March 2, 2016

7. On March 2, 2016, respondent appeared in Family Court, Albany County, and acted as the attorney for his daughter, Ms. H[redacted]. E[redacted], who was petitioning

for an Order of Protection against Mr. H[redacted]. C[redacted]. Mr. C[redacted] was not present in court.

8. During his appearance in court on March 2, 2016, respondent invoked his judicial office in two instances, stating:

A. "Now I'm her father as well as an attorney but I'm actually a judge. I can't practice law except in my own family cases."

B. "Now as a parent I learned one thing, and as a judge, when you say stay away to a young person, they often don't stay away."

9. Respondent's daughter was granted an order of protection and the matter was adjourned to April 7, 2016.

Family Court Proceeding on April 7, 2016

10. On April 7, 2016, respondent appeared in Family Court, Albany County, and acted as the attorney for his daughter, Ms. H[redacted]. E[redacted], with respect to cross-petitions seeking orders of protection which were then pending before the court.

11. After putting his appearance as attorney for Ms. E[redacted] on the record, respondent suggested that the matter might be resolved if counsel for both sides were permitted a brief recess to discuss the matter. The court granted a recess and respondent met with opposing counsel to discuss a resolution of the matter. When the case was recalled, counsel reported that they needed more time to reach an agreement, and the matter was adjourned to June 29, 2016.

12. In May 2016, Judge Sam D. Walker, Supervising Judge for the City Courts of the Ninth Judicial District, informed respondent that as a full-time judge he could not

practice law pursuant to Section 100.4(G) of the Rules. Thereafter, respondent took immediate action to retain an attorney to represent his daughter.

13. On June 29, 2016, respondent's daughter appeared in Family Court, Albany County, represented by other counsel. The matter was resolved on that court date.

Upon the foregoing findings of fact, the Commission concludes as a matter of law that respondent violated Sections 100.1, 100.2(A), 100.2(B), 100.2(C), 100.3(B)(1) and 100.4(G) of the Rules Governing Judicial Conduct ("Rules") and should be disciplined for cause pursuant to Article 6, Section 22, subdivision (a) of the Constitution and Section 44, subdivision 1 of the Judiciary Law. Charge I of the Formal Written Complaint is sustained and respondent's misconduct is established.

Each judge is obligated to "act at all times in a manner that promotes public confidence in the integrity and impartiality of the judiciary" and must "avoid impropriety and the appearance of impropriety." (Rules, §100.2(A)) Pursuant to Section 100.4(G) of the Rules, full-time judges are prohibited from practicing law. On three separate occasions, respondent, an experienced full-time judge, ignored this specific prohibition and appeared in Family Court as the attorney for his daughter. "Such conduct is strictly prohibited . . . even if the judge accepts no fee for the legal services . . . or performs legal services for a relative." *Matter of Ramich,* 2003 NYSCJC Annual Report 154, 158 (citations omitted). In *Matter of Ramich*, a full-time judge was censured for, *inter alia*, representing two relatives and a friend in real estate transactions. In that matter, the Commission held, "Although he received no fee in these cases, respondent's activities, including reviewing legal documents, corresponding with the opposing attorneys and

appearing with his clients at the closings, flouted the prohibition against the practice of law." *Id.* at 159. Here, over the course of five months, respondent engaged in the practice of law when he represented his daughter during three appearances in Family Court. Respondent only stopped his improper practice of law when a supervising judge counseled him after respondent's third court appearance. Respondent's conduct clearly violated the Rules.

Moreover, respondent's misconduct was exacerbated when he repeatedly referenced his judicial office during two of the court appearances in an effort to further his daughter's interests. The Rules explicitly provide that "[a] judge shall not lend the prestige of judicial office to advance the private interests of the judge or others. . .." (Rules, §100.2(C)) In *Matter of Lonschein*, 50 N.Y.2d 569 (1980), without specifically asserting his judicial office, a judge requested that an agency expedite a friend's license application knowing that his request to the agency's deputy counsel, who was aware of the judge's position, "would be accorded greater weight" than a request by a non-judge. *Id.* at 573. The Court of Appeals stated,

> no Judge should ever allow personal relationships to color his conduct or lend the prestige of his office to advance the private interests of others. . . . Members of the judiciary should be acutely aware that any action they take, whether on or off the bench, must be measured against exacting standards of scrutiny to the end that public perception of the integrity of the judiciary will be preserved.

Id. at 571-572 (citations omitted).

Respondent disregarded his special ethical obligations as a judge. During his Family Court appearances in which he improperly acted as his daughter's attorney in violation of

the Rules, respondent also repeatedly improperly referenced his judicial office which violated a separate provision of the Rules. It is undisputed that during one court appearance respondent stated he had been a judge for thirteen years and further stated, "I think I have a long experience in dealing with these cases. . .." In addition, while representing his daughter in court in violation of the Rules, respondent improperly gave his judicial opinion when he stated, "I've been in Family Court for five years. I appreciate the experience that you go through as a Family Court judge but this is nonsensical." In *Matter of Ayres,* 30 N.Y.3d 59 (2017), a town justice, who was not an attorney, was removed for, *inter alia*, attending his daughter's pretrial conference with a prosecutor in connection with a traffic ticket and invoking his judicial office. With respect to one of the charges against Ayres, the Court of Appeals held,

> . . . it was improper and a violation of petitioner's ethical duty for him to use his judicial position to interfere in the disposition of his daughter's traffic ticket. It was further improper for petitioner to tell the prosecutor that in his opinion and that of his colleagues the matter should be dismissed. By these actions petitioner did more than act as would any concerned parent, as he now maintains. Instead, he used his status to gain access to court personnel under circumstances not available to the general public, and, in his effort to persuade the prosecutor to drop the matter, gave his unsolicited judicial opinion.

Id. at 64-65.[1]

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[1] In *Ayres*, there was an additional charge and aggravating factors that are not present in the instant matter. For example, in addition to the charge related to invoking his judicial office, Ayres was also charged with sending letters, including five *ex parte* letters, to the County Court in connection with appeals from Ayres' restitution orders. *Id.* at 62. The Court of Appeals found that in these letters, Ayres "made biased, discourteous, and undignified statements about the defendant and defense counsel." *Id.* Even after being advised in writing that his letters were inappropriate, Ayres continued to send letters "opining on the merits of the case." *Id.* As an additional aggravating factor, the Court of Appeals found that Ayres failed to recognize that he had violated his ethical obligations which suggested that his

While we believe that respondent's misconduct comes close to warranting removal, in accepting the jointly recommended sanction of censure, we have taken into consideration that respondent has admitted that his conduct warrants public discipline. We trust that respondent has learned from this experience and in the future will act in strict accordance with his obligation to abide by all the Rules Governing Judicial Conduct.

By reason of the foregoing, the Commission determines that the appropriate disposition is censure.

Mr. Belluck, Mr. Harding, Ms. Corngold, Judge Falk, Ms. Grays, Judge Leach, Judge Mazzarelli, Judge Miller, and Ms. Yeboah concur.

Mr. Raskin files an opinion concurring in part and dissenting in part.

CERTIFICATION

It is certified that the foregoing is the determination of the State Commission on Judicial Conduct.

Dated: December 20, 2019

Celia A. Zahner, Esq.
Clerk of the Commission
New York State
Commission on Judicial Conduct

misconduct would continue if he were permitted to remain on the bench. *Id.* at 66. In contrast, in the instant matter, respondent ended his improper representation of his daughter after being counseled and has acknowledged that he violated the Rules.

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OPINION BY MR. RASKIN CONCURRING IN PART AND DISSENTING IN PART

I concur with the majority determination and respectfully dissent as to the sanction. The facts in this case are akin to the knowing and tactical misconduct in *Matter of Ayres*, 30 N.Y.3d 59 (2017). I find unavailing respondent's assertion that he was unaware his representation contravened established prohibitions. Respondent's conduct was neither inadvertent nor miscalculated. Rather, it was purposeful and strategic. I would recommend removal based upon the principles established in *Ayres*.

Dated: December 20, 2019

Marvin Ray Raskin, Member
New York State
Commission on Judicial Conduct