



NEW YORK STATE
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January 26, 2022

Via Email: [REDACTED] **@cjc.ny.gov**

Celia Zahner, Esq.
Clerk of the Commission
New York State Commission on Judicial Conduct
61 Broadway, Suite 1200
New York, New York 10006

Re: Matter of Carlos Gonzalez

Dear Ms. Zahner:

Commission Counsel writes in response to Respondent's Opposition to Motion for Summary Determination, which we received yesterday.

Summary determination is appropriate in this matter, as Respondent himself admits that there are no genuine issues of material fact in dispute. Indeed, Respondent explicitly "acknowledge[s] the facts presented to be true, with regards to [his] suspension from the practice of law." Resp Mem at p 2, ¶4. As the Court of Appeals held in *Matter of Tamsen*, 100 NY2d 19, 20 (2003), citing its own precedents in Commission cases: " '[T]he statutory requirement authorizing the [C]ommission to make a determination after a hearing does not require the [C]ommission to go through a meaningless formal hearing where no issue of fact is raised' " (*Matter of Embser*, 90 NY2d 711, 715 [1997], quoting *Matter of Petrie v State Commn on Jud Conduct*, 54 NY2d 807, 808 [1981]).

That the misconduct underlying Respondent's 24-month suspension from the practice of law predates his ascension to the bench in no way precludes the Commission from granting summary determination, as the Commission has

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disciplined – and even removed – judges for transgressions they committed as attorneys prior to taking the bench. *See Matter of DiStefano*, 2005 Ann Rep 145, 148 (Commn on Jud Conduct, Nov 12, 2004); *Matter of Tamsen*, 2003 Ann Rep 167, 169-70 (Commn on Jud Conduct, July 2, 2002) *aff'd* 100 NY2d 19 (2003); *see also Matter of Mason*, 2003 Ann Rep 227, 248 (Commn on Jud Conduct, June 21, 2002) *aff'd* 100 NY2d 56 (2003). The same result is appropriate here, and there is no reason to hold a factfinding hearing before reaching it.

Accordingly, Commission Counsel respectfully requests that the Commission grant summary determination as to Charge I of the Complaint.

Very truly yours,

Melissa DiPalo

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