

STATE OF NEW YORK
COMMISSION ON JUDICIAL CONDUCT

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

ROBERT H. SCHMIDT,

a Justice of the Brunswick Town Court,
Rensselaer County.

AGREED
STATEMENT OF FACTS

Subject to the approval of the Commission on Judicial Conduct

(“Commission”):

IT IS HEREBY STIPULATED AND AGREED by and between Robert H. Tembeckjian, Administrator and Counsel to the Commission, and Honorable Robert H. Schmidt (“Respondent”), that further proceedings are waived and that the Commission shall make its determination upon the following facts, which shall constitute the entire record in lieu of a hearing.

1. Respondent initially served as a Justice of the Brunswick Town Court, Rensselaer County, from January 1, 2000, to December 31, 2015. On January 1, 2020, after being out of office for several years, Respondent began a new term as a Justice of the Brunswick Town Court. His current term expires on December 31, 2023.

Respondent is not an attorney.

2. Respondent was served with a Formal Written Complaint dated August 24, 2020. He filed an Answer dated September 25, 2020.

As to Charge I

3. Beginning on August 10, 2019, and during the “Window Period”¹ of his 2019 campaign for election to the Brunswick Town Court, Respondent failed to maintain the dignity appropriate to judicial office, failed to act in a manner consistent with the impartiality, integrity and independence of the judiciary and engaged in inappropriate political activity, in that he posted items to his personal Facebook page, which were visible to the public, that:

- A. made disrespectful and undignified comments about laws he would be sworn to uphold as a sitting judge;
- B. propounded conspiracy theories; and
- C. endorsed a candidate for the Brunswick Town Council.

As to the Specifications to Charge I

4. Facebook is an internet social networking website and platform that *inter alia* allows users to post and share content on their own Facebook pages as well as on the Facebook pages of other users and on Facebook groups. Facebook users are responsible for managing the privacy settings associated with their accounts. At the option of the account holder, the content of one’s Facebook account may be viewable online by the public or restricted to one’s Facebook “Friends.”

¹ “Window Period,” as defined by the Rules of the Chief Administrator of the Courts at 22 NYCRR 100.0(Q), “denotes a period beginning nine months before a primary election, judicial nominating convention, party caucus or other party meeting for nominating candidates for the elective judicial office for which a judge or non-judge is an announced candidate, or for which a committee or other organization has publicly solicited or supported the judge’s or non-judge’s candidacy, and ending, if the judge or non-judge is a candidate in the general election for that office, six months after the general election, or if he or she is not a candidate in the general election, six months after the date of the primary election, convention, caucus or meeting.”

5. At all times relevant to this Charge, Respondent maintained a Facebook account under the name “Bob Schmidt.”

6. In March 2019, Respondent announced his candidacy for election to the Brunswick Town Court. On April 1, 2019, Respondent secured the nomination of the Republican Party.

7. On August 10, 2019, Respondent posted to his Facebook page a meme that implied that former President Bill Clinton had killed Jeffrey Epstein. Copies of screenshots of this post are appended as Exhibit A.

8. On August 16, 2019, Respondent posted to his Facebook page a link to the Facebook page for the campaign of Brunswick Town Council candidate Mark Cipperly. Respondent “liked” a comment to the post by another Facebook user that read, “Cip is a good man.” Copies of screenshots of this post are appended as Exhibit B.

9. On August 27, 2019, Respondent posted to his Facebook page a meme depicting a witch trial hanging that read, “JUST A REMINDER...SALEM, MASSACHUSETTS HAD ‘RED FLAG’ LAWS, TOO.” A copy of a screenshot of this post is appended as Exhibit C.

10. On August 31, 2019, Respondent posted to his Facebook page a meme that read, in part, “WHAT DOES THE SHEEP SAY? WE NEED COMMON SENSE GUN CONTROL.” Copies of screenshots of this post are appended as Exhibit D.

11. On August 31, 2019, Respondent posted to his Facebook page a meme that displayed a photograph of a Nazi book burning with the text, “BOOK BURNINGS DON’T JUST LOOK LIKE THIS,” above a second image showing a social media

platform warning that posts in violation of the platforms' guidelines will be removed, with the text, "THEY ALSO LOOK LIKE THIS." Copies of screenshots of this post are appended as Exhibit E.

12. All of the above-described posts were viewable by the public and remained viewable until April 23, 2020, when Respondent removed the posts after receiving a letter from the Commission regarding their propriety.

13. By reason of the foregoing, Respondent 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, in that Respondent failed to uphold the integrity and independence of the judiciary by failing to maintain high standards of conduct so that the integrity and independence of the judiciary would be preserved, in violation of Section 100.1 of the Rules; failed to avoid impropriety and the appearance of impropriety, in that he failed to respect and comply with the law and failed to act in a manner that promotes public confidence in the integrity and impartiality of the judiciary, in violation of Section 100.2(A) of the Rules; and failed to refrain from inappropriate political activity as a judicial candidate, in that he engaged in partisan political activity other than on behalf of his own campaign, in violation of Section 100.5(A)(1)(c) of the Rules, publicly endorsed another candidate for public office, in violation of Section 100.5(A)(1)(e) of the Rules, and failed to maintain the dignity appropriate to judicial office and act in a manner consistent with the impartiality, integrity and independence of the judiciary, in violation of Section 100.5(A)(4)(a) of the Rules.

As to Charge II

14. On January 4, 2020, to April 23, 2020, while a sitting judge, Respondent posted items to his personal Facebook page, which were visible to the public, that constituted prohibited public comments about pending or impending proceedings in his court and other courts within the United States and cast doubt on his ability to act impartially.

As to the Specifications to Charge II

15. Facebook is an internet social networking website and platform that *inter alia* allows users to post and share content on their own Facebook pages as well as on the Facebook pages of other users and on Facebook groups. Facebook users are responsible for managing the privacy settings associated with their accounts. At the option of the account holder, the content of one's Facebook account may be viewable online by the public or restricted to one's Facebook "Friends."

16. At all times relevant to this Charge, Respondent maintained a Facebook account under the name "Bob Schmidt." The biographical information on Respondent's Facebook page lists one of his occupations as "Judge – March 15, 1999 to Present – Brunswick, New York" and "Local Criminal Court Judge." A copy of a screenshot of Respondent's Facebook page identifying him as a judge is appended as Exhibit F.

17. Respondent was elected to the position of Brunswick Town Justice in the November 2019 election and took office on January 1, 2020.

18. On January 4, 2020, Respondent posted to his Facebook page a statement in which he announced he had performed the first nighttime arraignment of his new judicial

term and wrote, “Feel like a judge again.” Another Facebook user commented on Respondent’s post and asked if the defendant had been released before the judge got “back in bed,” to which Respondent replied, “of course. This is NY 2020.” Copies of screenshots of this post are appended as Exhibit G.

19. On January 30, 2020, Respondent posted to his Facebook page a link to a *New York Post* article entitled, “Fatal DWI suspect bragged about bail reform: ‘I’ll be out tomorrow.’” Respondent wrote above the post, “Sign of the time,” and another Facebook user commented, “I predict vigilante mentality will soon return.” The article reported on the pending Suffolk County Court case of *People v Jordan Randolph*, in which the defendant had been indicted for vehicular manslaughter and other charges. A copy of a screenshot of this post and a copy of the article are appended as Exhibit H.

20. On February 2, 2020, Respondent posted to his Facebook page a link to a *New York Post* article entitled, “Suspect in brutal mugging of elderly woman caught on video released under new bail law.” The linked article reported on the pending case of *People v Dana White*, in which the defendant had been charged with robbery. Another Facebook user commented on Respondent’s post, “Is this true?, [*sic*] disgusting!” A copy of a screenshot of this post and a copy of the article are appended as Exhibit I.

21. All of the above-described posts were viewable by the public and remained viewable until April 23, 2020, when Respondent removed the posts after receiving a letter from the Commission regarding their propriety.

22. By reason of the foregoing, Respondent 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, in that Respondent failed to uphold the integrity and independence of the judiciary by failing to maintain high standards of conduct so that the integrity and independence of the judiciary would be preserved, in violation of Section 100.1 of the Rules; failed to avoid impropriety and the appearance of impropriety, in that he failed to respect and comply with the law and failed to act in a manner that promotes public confidence in the integrity and impartiality of the judiciary, in violation of Section 100.2(A) of the Rules; and failed to perform the duties of judicial office impartially and diligently, in that he made public comments about pending or impending proceedings in any court within the United States or its territories, in violation of Section 100.3(B)(8) of the Rules.

Additional Factors

23. Respondent has been cooperative and contrite with the Commission throughout this inquiry. In addition to promptly removing all Facebook posts after receiving the Commission's letter regarding their propriety, Respondent expressed remorse for his actions in both his initial response to the Commission's inquiry and in his Answer to the Formal Written Complaint. In the latter, Respondent wrote, "I cringe as I review the [posts] presented and have no explanation as to why I felt that it would be appropriate to put them on my Facebook page as a candidate for judicial office." Respondent further acknowledged that, though the posts were not reflective of him as a town justice, his conduct was nevertheless "beneath anyone who is privileged to wear a robe and is trusted with representing our judicial system to the public."

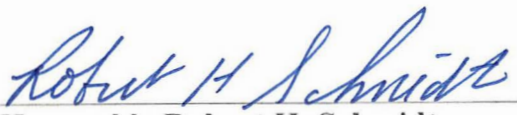
24. Respondent commits to being more circumspect in his use of social media in the future and to ensure that none of his postings convey the appearance of impropriety, comment upon pending or impending proceedings, propound conspiracy theories, endorse other candidates for public office or detract from the dignity and impartiality of the judiciary.

IT IS FURTHER STIPULATED AND AGREED that Respondent withdraws from his Answer any denials or defenses inconsistent with this Agreed Statement of Facts.

IT IS FURTHER STIPULATED AND AGREED that the parties to this Agreed Statement of Facts respectfully recommend to the Commission that the appropriate sanction is public Admonition based upon the judicial misconduct set forth above.

IT IS FURTHER STIPULATED AND AGREED that if the Commission accepts this Agreed Statement of Facts, the parties waive oral argument and waive further submissions to the Commission as to the issues of misconduct and sanction, and that the Commission shall thereupon impose a public Admonition without further submission of the parties, based solely upon this Agreed Statement. If the Commission rejects this Agreed Statement of Facts, the matter shall proceed to a hearing and the statements made herein shall not be used by the Commission, Respondent or the Administrator and Counsel to the Commission.

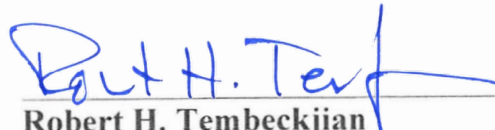
Dated: 10/20/2020



Honorable Robert H. Schmidt

Respondent

Dated: October 20, 2020

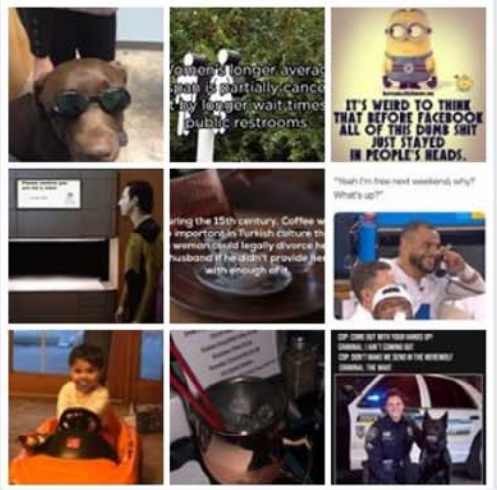


Robert H. Tembeckjian

Administrator & Counsel to the Commission
(**Cathleen S. Cenci** and **S. Peter Pedrotty**, Of
Counsel)

- President (title) at Schmidt Agency
- Studied at University at Albany, SUNY
- Went to Tamarac Senior High School
- Lives in Brunswick, New York
- From Brunswick, New York
- Married to Kathy Kane Schmidt

Photos



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Press Enter to post.

Bob Schmidt August 10, 2019



Women, Weapons Warfare II August 10, 2019 Like Page

1 4 Comments 1 Share

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James Howard How do you hang self while in prison on suicide watch? Like Reply · 27w · Edited

Susan Dayton replied · 1 Reply



EXHIBIT A



Friends - 255



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Women, Weapons Warfare II
August 10, 2019 · Like Page

1 4 Comments 1 Share

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James Howard How do you hang self while in prison on suicide watch?

Like · Reply · 27w · Edited

Susan Dayton James Howard you piss off the Clintons

Like · Reply · 27w

Write a reply...

Press Enter to post.

Tricia LaRose-Vicedomine



Like · Reply · 27w

Tricia LaRose-Vicedomine Just smells too fishy .

Like · Reply · 27w

Write a comment...

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Bob Schmidt Timeline 2019 August

Add Friend



Tom Reed Susan Dayton Bill Michell




Sandy Cason Jayne Tarbox Robert Duncan Daus



Julie Ann Ingrid Gundrum Kathy Kane Schmidt

Life Events



Started School at University at...

August 25, 1976

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Press Enter to post.

Bob Schmidt August 16, 2019



Mark Cipperty for Brunswick Town Council August 15, 2019 Like Page

Mark Cipperty is officially running for Brunswick Town Council! Follow along here on the Mark Cipperty for Brunswick Town Council Facebook Page in the months leading up to Election Day in November and help Mark spread the word by sharing!

6 1 Comment 1 Share

Like Comment Share

James Howard Cip is a good man Like Reply 26w 1

Write a comment...

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EXHIBIT B



Bob Schmidt Timeline 2019 August

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Tom Reed



Susan Dayton



Bill Michell



Sandy Cason Daus



Jayne Tarbox



Robert Duncan



Julie Ann



Ingrid Gundrum



Kathy Kane Schmidt

Life Events



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Press Enter to post.



Bob Schmidt August 16, 2019



Mark Cipperly for Brunswick Town Council August 15, 2019

Like Page

Mark Cipperly is officially running for Brunswick Town Council! Follow along here on the Mark Cipperly for Brunswick Town Council Facebook Page in the months leading up to Election Day in November and help Mark spread the word by sharing!

6

1 Comment 1 Share

Like

Share



James Howard Ciperly is a good...

Like · Reply · 26w



Write a comment...



Press Enter to post.



Mark Cipperly for Brunswick Town Council

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MARK CIPPERLY

FOR

BRUNSWICK TOWN COUNCIL

Like Follow Share ...

Send Message

Create Post

Write a post...

Photo/Video Tag Friends Get Messages ...

Posts



Mark Cipperly for Brunswick Town Council

November 6, 2019 · 🌐

We did it! A huge THANK YOU to all of my fantastic supporters for helping me win in yesterday's election. I can't wait to get started as your new Town Councilman!

Ask Mark Cipperly for Brunswick Town Council

"Can you tell me more about yourself?" Ask

"Can I learn more about your background?" Ask

"Are you available to chat?" Ask

Type a question... ➔

Community

See All

238 people like this

245 people follow this

About

See All

Typically replies within a day
Send Message

Friends · 255



Tom Reed Susan Dayton Bill Michell



Sandy Cason Daus Jayne Tarbox Robert Duncan



Julie Ann Ingrid Gundrum Kathy Kane Schmidt

Life Events



Started School at University at... August 25, 1976

Bob Schmidt August 27, 2019



APOC Armory August 25, 2019

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1

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EXHIBIT C



Tom Reed Susan Dayton Bill Michell



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Bob Schmidt August 31, 2019



EXHIBIT D



Bob Schmidt Timeline 2019 August

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Tom Reed



Susan Dayton



Bill Michell



Sandy Cason Daus



Jayne Tarbox



Robert Duncan



Julie Ann



Ingrid Gundrum



Kathy Kane Schmidt



Life Events



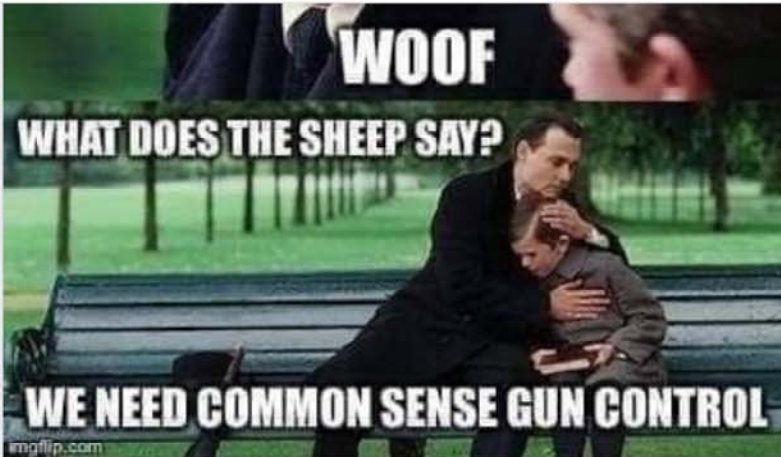
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Women, Weapons Warfare II

August 31, 2019

Like Page



1 Comment

Like

Comment

Share



Matt Wade Bob, seriously, you're running for Town Justice and you're against "common sense" solutions? C'mon man, get with the times. At least for the sake of cross-party voters, don't spread this crap. If anything, the real sheep shrug and say, "Thoughts and prayers." Obviously it's helping so much. 😊

Like · Reply · 24w · Edited



Write a comment...



Press Enter to post.



Bob Schmidt

August 31, 2019





Tom Reed Susan Dayton Bill Michell




Sandy Cason Jayne Tarbox Robert Duncan Daus



Julie Ann Ingrid Gundrum Kathy Kane Schmidt

Life Events



Started School at University at...
August 25, 1976



Bob Schmidt August 31, 2019



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We removed your post because it doesn't follow our Community Guidelines on regulated goods. If you violate our guidelines again, your account may be restricted or disabled.

Bob Graham August 23, 2019

EXHIBIT E



Tom Reed Susan Dayton Bill Michell




Sandy Cason Daus Jayne Tarbox Robert Duncan



Julie Ann Ingrid Gundrum Kathy Kane Schmidt

Life Events



Started School at University at...
August 25, 1976

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follow our Community Guidelines on regulated goods. If you violate our guidelines again, your account may be restricted or disabled.

Bob Graham August 23, 2019

4

3 Comments 1 Share

Like

Comment

Share



Susan Dayton Facebook should be called Hitler's playbook

Like · Reply · 24w



Matt Wade Lol, Bob, your feed is... medieval. For the sake of the town, which will do well to have you as a town justice again, resist the urge to share crap like this. I hate FB too. But government-imposed book burning is NOT equivalent to FB or social media choosing to censor. One is government (illegal) and the other is private industry (can choose the content it wants to host on its servers). Don't like it? Leave Facebook. (Sounds like a certain president telling actual citizens of an actual country to leave if they don't like his policies, which is not how actual democratic government works—but which platforms to choose? That's entirely the market economy.) C'mon, man, you're better than this.

Like · Reply · 24w · Edited



Bob Schmidt Matt Wade Point taken. I do appreciate your support.

Like · Reply · 24w



Write a reply...



Press Enter to post.



Write a comment...



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Bob Schmidt





Bob Schmidt

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About

To see what he shares with friends, send him a friend request.

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Overview

Work and Education

Places Lived

Contact and Basic Info

Family and Relationships

Details About Bob

Life Events

WORK



Brunswick Town Court

Judge · March 15, 1999 to present · Brunswick, New York

Local Criminal Court Judge



Schmidt Agency

President (title)

EDUCATION



University at Albany, SUNY

Class of 1980 · Albany, New York



Tamarac Senior High School

Troy, New York

EXHIBIT F

Bob Schmidt Timeline Recent

Tom Reed Susan Dayton Bill Michell

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Julie Ann Ingrid Gundrum Kathy Kane Schmidt

Life Events

Started School at University at...
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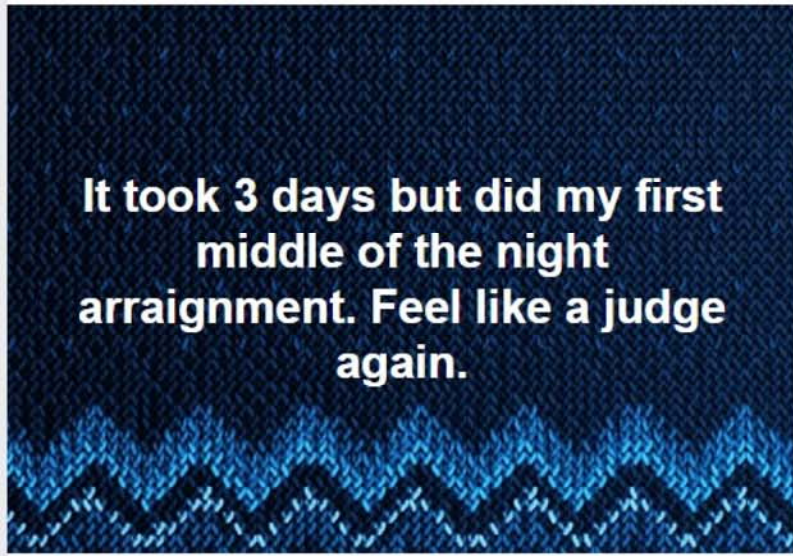
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Bob Schmidt January 4



64 12 Comments

Like Comment Share

- AI Christian You need to start after noon naps. 🤔🤔
Like · Reply · 6w
- Sandy Cason Daus And did he/she get released before you were back in bed?
Like · Reply · 6w
- Bob Schmidt Sandy Cason Daus of course. This is NY 2020.
Like · Reply · 6w
- Len Johnson Lol congratulations sir
Like · Reply · 6w

EXHIBIT G



Bob Schmidt Timeline Recent

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Len Johnson Lol congratulations sir

Like · Reply · 6w



Bob Brower Pretty soon, you won't need a judge. The police will arrest and issue an appearance ticket. Maybe add "don't do it again" but I am sure some snowflake will get upset with that too!

Like · Reply · 6w



Shaun Theoret Sad that they are taking away the power to keep bad people away from the rest of us.

Like · Reply · 6w



Andy James Catch and Release

Like · Reply · 6w



Kathy Kane Schmidt Love you Babe. Be careful out there ❤️

Like · Reply · 6w



Bob Schmidt Kathy Kane Schmidt ❤️

Like · Reply · 6w



Write a reply...



Press Enter to post.



Judy Cushing It's only just begun

Like · Reply · 6w



Kathy Kane Schmidt Judy Cushing indeed

Like · Reply · 6w



Write a reply...



Press Enter to post.



Mary Hansen Welcome back. ❤️

Like · Reply · 6w



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Bob Schmidt
January 30 at 6:08 PM

Sign of the time



NYPOST.COM
Fatal DWI suspect bragged about bail reform: 'I'll be out tomorrow'

7 1 Comment 1 Share

Like Comment Share

Andy James I predict vigilante mentality will soon return
Like · Reply · 2w

Write a comment...
Press Enter to post.

Bob Schmidt
January 30 at 3:42 PM

Thought for today:

EXHIBIT H

METRO

Fatal DWI suspect bragged about bail reform: 'I'll be out tomorrow'

By Kevin Sheehan and Jorge Fitz-Gibbon

January 30, 2020 | 3:56pm | Updated



Jordan Randolph
Dennis A. Clark

A Long Island man arrested after a fatal drunken wreck Jan. 12 bragged to cops, "The laws changed, I'll be out tomorrow," thanks to new bail reform measures, prosecutors said Thursday.

Jordan Randolph, 40, who did walk free the next day, also told cops the deadly crash was "just a DWI."

SEE ALSO



Details of the boozy bust were revealed Thursday as Randolph was hit with a 24-count indictment for vehicular manslaughter, aggravated vehicular homicide and a slew of other charges in the crash that **killed 27-year-old Jonathan Flores-Maldonado**.

"As Jonathan Flores was left taking his last breaths and dying, this defendant was hurling expletives at both officers and EMTs who were trying to render him aid," Suffolk County Assistant District Attorney Jacob DeLauter said during Randolph's arraignment.

"At one point, the defendant completely trivialized this deadly collision by stating to police, 'F-k you, January 1st the laws changed. I'll be out tomorrow and I will come find you,'" DeLauter said. "He also

Alleged drunk driver in fatal LI crash released under bail reform

stated to an EMT that when he gets out, he'll come find her."

DeLauter said Randolph, who has three prior DWI convictions, was driving at "more than 135 miles per hour" prior to the deadly crash, and that it took several officers to subdue the hulking suspect.

Randolph had been **free without bail for weeks** before the Jan. 12 crash — despite an earlier arrest in Suffolk on Jan. 1 and a parole violation in Nassau County on which he was supposed to plead guilty months earlier.

And yet he walked free again after the fatal wreck.

That's because the new law prohibits judges from setting bail on most misdemeanors and many nonviolent felonies — including drunken driving.

"My son became a body count," Flores-Maldonado's mother, Lillian Flores, railed outside the Suffolk courtroom Thursday after Randolph pleaded not guilty to the indictment.

"I'm here to advocate for my son and for any other victims that are subject to the injustices of these new laws," she said. "My name is Lillian Flores. My son is Jonathan Flores-Maldonado, and he was the one that was mowed down on the damned highway."

Under the new bail laws, Randolph could not be held after the crash because Suffolk prosecutors only charged him with drunken driving and not with Flores-Maldonado's death.


Extensive media coverage of the case prompted Nassau County Judge William O'Brien, who was presiding over the parole violation in that county, to order Randolph arrested and jailed.

On Thursday, Suffolk County Judge Fernando Camacho ordered him held without bail on the indictment.



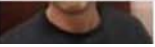


Jonathan Flores-Maldonado
Gofundme




Bob Schmidt Timeline Recent






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Sandy Cason Jayne Tarbox Robert Duncan Daus

Julie Ann Ingrid Gundrum Kathy Kane Schmidt

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Bob Schmidt February 2 at 9:16 PM · 🌐



NYPOST.COM
Suspect in brutal mugging of elderly woman caught on video released under new bail law

1 Comment

Like Comment Share

Debbie DuJack Is this true? , disgusting!
Like · Reply · 2w

Write a comment...
Press Enter to post.

Bob Schmidt February 2 at 9:57 AM · 🌐

EXHIBIT I

METRO

Suspect in brutal mugging of elderly woman caught on video released under new bail law

By [Larry Celona](#) and [Ruth Weissmann](#)

February 1, 2020 | 7:32pm | Updated

Not even this brutal, caught-on-video mugging — in which a struggling 83-year-old woman was dragged to the ground, and her purse wrenched away — is enough to get a suspect locked up these days under the state's new bail reform law.

Exclusive video obtained by The Post allegedly shows 56-year-old Dana White, of Jamaica, Queens, walking up behind the victim in front of a building on Eldridge St. on the Lower East Side at about 5:45 a.m. Monday.

The victim is so petite compared to her attacker, that she stands only as high as his chest as he grabs at her scarf.

When the woman, who was walking with a cane, turns to escape his grasp, the thief puts his arms around her neck and drags her to the ground, the video shows.

The brave woman struggles on the pavement and waves her cane as she tries to fight off the fiend, who soon yanks her purse from around her neck and leaves her on the ground.

"She was a tough old woman who didn't want to give it up," a law enforcement source told The Post of the victim and her precious purse.

White was arrested shortly after the coldhearted attack and charged with robbery — but was released without bail by the [new legislation](#), which restricts bail for most low-level crimes.

Cops were fuming after the release, the latest in a [string of repeat offenders](#) sent back onto the streets under the new law, which requires a robbery to have caused an injury before a judge is allowed to set bail.

The sturdy senior had declined medical assistance at the scene.

"This is a crime that was deemed non-violent by Governor Cuomo — what an asshole," one frustrated cop told The Post in outrage.

"How would he like it if the victim was somebody he knew or was related to?"

White has at least 14 previous arrests, including at least 6 robbery charges and charges for criminal possession of a weapon, trespassing, and assault, sources said.

Police were so irritated by White's release that they dug into the case — and found he was on parole for a previous burglary, sources said.

He was taken back into custody shortly after for the parole violation.