

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

VAN H. WHITE,

a Judge of the Rochester City Court,
Monroe County.

**AGREED
STATEMENT OF FACTS**

Subject to the approval of the Commission on Judicial Conduct:

IT IS HEREBY STIPULATED AND AGREED by and between

Robert H. Tembeckjian, Administrator and Counsel to the Commission, and the Honorable Van H. White (“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 was admitted to the practice of law in New York in 1990. He has been a Judge of the Rochester City Court, Monroe County, since July 14, 2022. Respondent’s term expires December 31, 2032.

2. Respondent was served with a Formal Written Complaint dated November 6, 2023. He filed an Answer signed November 27, 2023.

As to Charge I

3. On July 23, 2022, just prior to the arraignment of Kelvin J. Vickers, Jr., on criminal charges in connection with his alleged shooting of two Rochester

Police Department officers, Respondent asked everyone present in the courtroom – including more than a hundred uniformed members of the Rochester Police Department, dozens of other law enforcement officers, and other court attendees – to join him in a moment of silence for victims of violence.

As to the Specifications to Charge I

4. On July 23, 2022, Respondent, who was serving by appointment as a Rochester City Court Judge, was a candidate for election to that office in the election scheduled for November 2022.

5. On July 23, 2022, in *People v Kelvin J. Vickers, Jr.*, Respondent arraigned the defendant, who was charged with Murder in the Second Degree, Attempted Murder in the Second Degree, two counts of Criminal Possession of a Weapon in the Second Degree, and Assault in the Second Degree, in connection with the shooting of two Rochester Police Department officers.

6. Prior to the arraignment, over defense counsel’s objection, Respondent granted media requests to videotape and photograph the proceeding for public distribution and viewing.

7. Just before Mr. Vickers was brought into the courtroom, which was filled with more than 100 uniformed members of the Rochester Police Department, Respondent made the following comments from the bench:

Good morning. Actually, it is a difficult morning . . . In the five days that I have been on the bench, this is probably the third

occasion where I have felt [it] necessary to ask everyone to join me in a moment of silence . . .

I've seen too many mothers and fathers, sons and daughters here grieving . . . So I ask you all to take [a] moment to think of those left to deal with the tragedy of this type of loss.

Those comments were subsequently published by the media.

8. By reason of the foregoing, Respondent should be disciplined for cause, pursuant to Article VI, 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 of the Chief Administrator of the Courts Governing Judicial Conduct (“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 failed to be faithful to the law and maintain professional competence in it and not be swayed by partisan interests, public clamor or fear of criticism, in violation of Section 100.3(B)(1) of the Rules, and failed to perform judicial duties without manifesting bias or prejudice against or in favor of any person by words or conduct, in violation of Section 100.3(B)(4) of the Rules.

As to Charge II

9. On September 29, 2022, Respondent (A) participated in a public demonstration against violence near the site where a child had been wounded by stray gunfire the day before, and (B) made televised comments sympathetic to victims of violence, notwithstanding that two individuals had been arrested in connection with the alleged crime, one of whom already had been arraigned in Rochester City Court.

As to the Specifications to Charge II

10. On September 28, 2022, two defendants were arrested shortly after gunshots were fired in the area of North Clinton Avenue in the Northeast Quadrant of Rochester, New York. A three-year-old boy was struck by a stray bullet.

11. On September 29, 2022, in connection with the shooting, one of two defendants was arraigned in Rochester City Court before a judge other than Respondent, on felony assault and weapons charges, as well as on a misdemeanor charge of endangering the welfare of a child.

12. On September 29, 2022, in the evening, after having presided in Rochester City Court during the day, Respondent participated in a public rally at a location near the site of the shooting, organized by individuals demonstrating opposition to violence. The demonstration was covered by local media.

13. Respondent spoke to media representatives at the demonstration, both on and off camera, and was identified by name and title in video, online and print news coverage of the event. Among other things, Respondent was publicly reported as having said during the demonstration that “the names of the victims have changed, but this problem has not.”

14. By reason of the foregoing, Respondent should be disciplined for cause, pursuant to Article VI, 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 conduct his extra-judicial activities so as to minimize the risk of conflict with judicial obligations, in that he engaged in extra-judicial activities that cast reasonable doubt on his capacity to act impartially as a judge, in violation of Section 100.4(A)(1) of the Rules.

As to Charge III

15. From July 2022 through May 2023, on his personal website and personal Facebook page, both of which identified him as a Rochester City Court Judge, Respondent posted a video that he created and narrated entitled, “Deadly Encounters,” which provided legal advice to individuals involved in traffic stops. In the video, which was recorded and posted when he was an attorney in private practice, but which remained posted for approximately 10 months after he took the bench, Respondent *inter alia* referred to the police as a “pack of wolves.”

As to the Specifications to Charge III

16. Years before becoming a judge, Respondent created a personal website with the following web address: <https://www.thelegalbrief.com>.

17. Facebook is an internet social networking website and platform that, *inter alia*, allows users to create and curate their own Facebook pages, on which they can share personal and personalized content. 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 page - including photographs and textual posts - may be viewable online by the general public or restricted to one’s Facebook “Friends.” Years before becoming a judge, Respondent created and has maintained a personal Facebook account in the name of “Van Henri White.”

18. Prior to becoming a judge, Respondent wrote, produced and narrated a series of legal videos that he called, “The Legal Brief with Van White,” which was accessible to members of the public through his personal website and his personal Facebook page. Respondent’s website described the videos as being designed to inform urban residents of their legal rights.

19. One episode of Respondent’s “Legal Brief” was a video of approximately four minutes in length entitled, “Deadly Encounters,” which *inter alia* provided information and commentary about various legal cases, the law, and police weapons. The video *inter alia* advised individuals on how to interact with the police if stopped in their vehicles by law enforcement. “Deadly Encounters,” in which Respondent depicted and identified “PR-24s” (*i.e.* a standard-issue police baton) as “the modern-day equivalent of a billy club,” also contained video of aggressive, hostile and violent police behavior, including video of Los Angeles police officers beating Rodney King in 1991 and a photograph of Mr. King’s badly beaten face. In the video, Respondent stated, *inter alia*, “you are always going to be on the losing end if it’s a battle between you and a pack of wolves with PR-24s.”

20. From July 2022, when he first became a judge, to May 2023, Respondent identified himself as a Rochester City Court Judge on his Facebook

page, to which he also posted various photographs of himself in his judicial robe, as well as information related to his judicial appointment and election.

21. From July 2022, when he first became a judge, to May 2023, Respondent continued to operate his personal website, on the cover page of which he posted a photograph of himself beside his judicial nameplate and wearing his judicial robe at his Rochester City Court bench.

22. From July 2022, when he first became a judge, to May 2023, the “Deadly Encounters” video, and other videos from Respondent’s “Legal Brief” series, remained posted to his personal website (“The Best of the Legal Brief”) and accessible to the public. The website, *inter alia*, included a statement that said:

Now that Van White is a judge, he can no longer practice law or offer legal advice. Therefore, The Legal Briefs contained in this section are from the Legal Briefs archives and are not offered for the purposes of offering legal advice. However, even as a judge, Van will always be there, wherever and whenever he is asked, to inform and inspire our community.

23. By reason of the foregoing, Respondent should be disciplined for cause, pursuant to Article VI, 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 conduct his extra-judicial activities so as to minimize the risk of conflict with judicial obligations, in that he engaged in extra-judicial activities that cast reasonable doubt on his capacity to act impartially as a judge, in violation of section 100.4(A)(1) of the Rules, and practiced law, in violation of section 100.4(G) of the Rules.

Additional Factors

24. As to Charge I, Respondent understands that his conduct, occurring as it did in the context of the shooting of police officers, in the midst of the arraignment of a defendant whose innocence was presumed and whose guilt had not been established, failed to avoid impropriety and the appearance of partiality. Respondent is now more mindful of, and commits to promote, the judicial obligation to be and appear impartial.

25. As to Charge II, Respondent understands that his conduct at a public demonstration, occurring as it did in reaction to a shooting, and shortly after the arraignment of a defendant whose innocence was presumed and whose guilt had not been established, failed to avoid impropriety and the appearance of partiality. Respondent is now more mindful of, and commits to promote, the judicial

obligation to be and appear impartial.

26. As to both Charges I and II, the conduct occurred shortly after Respondent became a judge. With experience, he is now more attentive to his ethical obligations under the Rules.

27. As to Charge III, Respondent has closed his “legalbrief” website and realizes he should have done so promptly upon assuming judicial office, to avoid even the appearance of bias and that he was dispensing legal advice.

28. Between July 2022 and December 2022, Respondent communicated with the Advisory Committee on Judicial Ethics on several occasions, in order to clarify and better understand his ethical responsibilities.

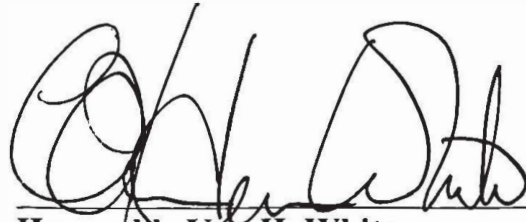
IT IS FURTHER STIPULATED AND AGREED that Respondent withdraws from his Answer any denials or defenses inconsistent with this Agreed Statement of Facts.

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, the Respondent or the Administrator and Counsel to the Commission.

Dated: 3/25/24



Honorable Van H. White
Respondent

Dated: March 26, 2024



Robert H. Tembeckjian
Administrator & Counsel to the Commission
(John J. Postel and David M. Duguay, Of
Counsel)