



NEW YORK STATE
COMMISSION ON JUDICIAL CONDUCT

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NEWS RELEASE

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Rensselaer County Supreme Court Justice Admonished for Improper Campaign Pledges and Misleading Campaign Literature

The New York State Commission on Judicial Conduct has determined that Patrick J. McGrath, a Justice of the Supreme Court, Rensselaer County, should be admonished.

In a determination dated February 5, 2010, the Commission found that during his campaign for Supreme Court in 2008, Judge McGrath made improper “pledges or promises” to pistol permit holders and misrepresented his jurisdiction over such permits.

In a letter sent to 7,000 “fellow Pistol Permit holder[s],” the judge referred to his own pistol permit, described his attentive handling of such permit applications, noted that he had signed more than 20,000 permits and amendments, and stated that he “look[s] forward to serving the Pistol Permit holders for another 14 years.”

While the Rules Governing Judicial Conduct require a judicial candidate to avoid pledges, promises or commitments “that are inconsistent with the impartial performance of the adjudicative duties of the office,” the Commission found that Judge McGrath’s letter “conveyed bias and the appearance of bias in favor of pistol permit holders and implied that as a judge he would favorably consider their interests.”

The Commission also said the judge’s representation in this letter that he had exclusive jurisdiction over pistol permits “not only was legally incorrect, but buttressed the biased message conveyed in his letter.”

The determination can be found on the Commission’s website:

www.scjc.state.ny.us.

The Commission Proceedings

Judge McGrath was served with a Formal Written Complaint dated August 11, 2009, containing one charge. The Administrator of the Commission, the judge and the judge’s attorney entered into an Agreed Statement of Facts on January 11, 2010, stipulating as to the facts and sanction and waiving further submissions and oral argument. The Commission accepted the Agreed Statement on January 27, 2010.

The Commission Determination

The Commission filed its determination on February 5, 2010. Judge Thomas A. Klönick (the Commission Chair), Stephen R. Coffey, Esq. (the Vice Chair), Joseph W. Belluck, Esq., Richard D. Emery, Esq., Paul B. Harding, Esq., Elizabeth B. Hubbard, Judge Jill Konviser, Nina M. Moore, Judge Karen K. Peters and Judge Terry Jane Ruderman concurred.

Prior Discipline

Judge McGrath was admonished in 2004 for publicly commenting about a pending case while he was a candidate for re-election.

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.

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 McGrath does not request review by the Court of Appeals, the Commission will admonish him in accordance with the determination.

If the Commission's 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 admonished 237 judges in New York State. The Commission has issued a determination of removal as to 160 judges and has censured 282 judges.

The Court of Appeals has reviewed 91 Commission determinations. The Court accepted the Commission's sanctions in 75 cases (66 of which were removals, 6 were censures and 3 were admonitions). Of the remaining 16 cases, two sanctions were increased from censure to removal, and 13 were reduced: 9 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 back to the Commission for further proceedings.

Counsel

In the proceedings before the Commission, Judge McGrath was represented by Peter J. Moschetti, Jr., Esq., Anderson, Moschetti & Taffany, PLLC, 26 Century Hill Drive, Suite 206, Latham, New York 12110, (518) 785-4900.

The Commission was represented by Robert H. Tembeckjian, Esq., Administrator and Counsel to the Commission, and Senior Attorney Thea Hoeth, Esq. Senior Investigator David Herr assisted in the investigation.

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 New York, New York 10006	Corning Tower, Suite 2301 Empire State Plaza Albany, New York 12223	400 Andrews Street Rochester, New York 14604
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MEMBERS OF THE STATE COMMISSION ON JUDICIAL CONDUCT

Member	Appointing Authority	Term End
Hon. Thomas A. Klonick, Chair	Chief Judge Jonathan Lippman	March 31, 2013
Stephen R. Coffey, Esq., Vice Chair	Former Senate President Pro Tem Joseph L. Bruno	March 31, 2011
Joseph W. Belluck, Esq.	Governor David A. Paterson	March 31, 2012
Richard D. Emery, Esq.	Former Senate Minority Leader Malcolm A. Smith	March 31, 2012
Paul B. Harding, Esq.	Former Assembly Minority Leader James Tedisco	March 31, 2013
Elizabeth B. Hubbard	Governor David A. Paterson	March 31, 2011
Hon. Jill Konviser	Former Governor George E. Pataki	March 31, 2010
Nina M. Moore	Governor David A. Paterson	March 31, 2013
Hon. Karen K. Peters	Former Chief Judge Judith S. Kaye	March 31, 2010
Hon. Terry Jane Ruderman	Former Chief Judge Judith S. Kaye	March 31, 2012
Vacant	Assembly Speaker Sheldon Silver	March 31, 2010