



Vincent J. Messina Jr.
Partner
vmessina@skmlaw.net

September 24, 2019

Court of Appeals of the State of New York
Attn: Heather Davis, Deputy Clerk
20 Eagle Street
Albany, NY 12207-1095

Re: Matter of Hon. Robert L. Cicale
Judge of the District Court, Suffolk County

Dear Ms. Davis:

As you are aware, this firm represents The Hon. Robert L. Cicale in relation to his current suspension, as referenced in your letter dated September 18, 2019. Kindly permit this correspondence to serve as a response to same, and it is respectfully requested that it be circulated to the Court.

As your correspondence correctly states, my client entered a plea of guilty to one count of Attempted Burglary in the Second Degree on Friday, September 13, 2019. It is respectfully submitted that based upon all of the facts and circumstances in this matter, a continuation of the current suspension with pay is warranted at least until the next court date, to wit: November 15, 2019, at which time the Court could re-evaluate this matter based upon the facts that exist at that time.

From the onset of the case, my client has sought to address his mental health and has undergone prescribed intense treatment. He has been examined by psychiatrists and has been under the constant and consistent care of a licensed therapist. In October of 2018, my client entered inpatient treatment at Promises Scottsdale, a mental health facility in Arizona, where he remained for six weeks (in excess of the planned 30 day program) and successfully completed all aspects of his therapy. He has continued all recommended aftercare with his therapist.

I have been advised that my client's criminal defense attorneys have repeatedly requested that his case proceed in the Mental Health Court of Suffolk County. These efforts have been unsuccessful to date due to the refusal of the District Attorney to consent to the transfer of the matter. Notwithstanding this refusal, my client has, in furtherance of this goal, agreed to be examined by an independent psychiatrist for the purpose of producing a report concerning his mental health. I am further advised that the psychiatrist, Dr. Alexander Sasha Bardey, was chosen at the suggestion of the District Attorney's office. A report was furnished and given to the District Attorney and Dr. Bardey appeared at a conference of the case to answer any questions raised in his evaluation. My client is willing to share the report in confidence with the Court.

Courthouse Plaza
267 Carleton Avenue, Suite 301 | Central Islip | NY 11722
Tel: 631.650.1200 | Fax: 631.650.1207
www.skmlaw.net

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I am also advised that the guilty plea entered by my client does not foreclose the opportunity for his case to be transferred to the Mental Health Court and his attorneys have continued to request such as they feel it is the appropriate venue. If transferred, the case would continue along a different track designed to ensure adherence to a course of continued treatment with the chance for a plea distinct, and perhaps less severe, from the current status. Moreover, the present plea is not a final determination of the matter. Although my client has not expressed an intention to withdraw his plea prior to sentence, the potential for an alternative outcome or procedure remains a possibility.

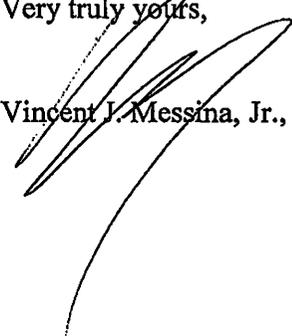
As it relates to his current suspension, my client remains in his current position and is subject to the rules of outside employment and income. A suspension without pay would be severely detrimental to his family and would adversely affect his ability to continue with his present treatment. Further, it is respectfully submitted that in the absence of a final determination by either the trial court and/or the State Commission on Judicial Conduct, a change from his current suspension with pay would be premature. Finally, the charge and subsequent plea are unrelated to my client's duties as a judge and he has not been accused or sanctioned for any activity appurtenant to his office.

My client has cooperated fully throughout the process and has been respectful to the weight of the charges and the decision before this Court. He has not contested the determination of his suspension and continues to abide by his restrictions. On his behalf, it is my request that his suspension continue with pay, in order that he may continue to address his mental health and support his family until at least November 15, 2019 or until a final determination in this matter is reached.

Should the Court request any further correspondence, materials, reports, or testimony, I am available at the Court's convenience to provide them immediately.

Once again, both Judge Cicale and I are grateful for the opportunity to address the Court.

Very truly yours,


Vincent J. Messina, Jr., Esq.