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CONFIDENTIAL

August 9, 2023

Hon. Lisa LeCours
Clerk of the Court of Appeals
Court of Appeals Hall
20 Eagle Street
Albany, New York 12207

*Re: Matter of Hon. Mitchell Q. Soules, Jr., a
Justice of the Little Falls Town Court*

Dear Ms. LeCours:

Thank you for your letter of July 28, 2023, regarding the Court's suspension of Little Falls Town Justice Mitchell Q. Soules, pursuant to Article VI, Section 22, subdivision f, of the New York State Constitution, and Section 44, subdivision 8, of the Judiciary Law, following his having been charged with felonies. Please accept these comments on whether the suspension should be continued.

Justice Soules was arrested on June 28, 2023, and charged with Criminal Possession of a Controlled Substance in the Third Degree, Criminal Possession of a Controlled Substance with Intent to Sell, and Criminal Possession of a Controlled Substance in the Fourth Degree, all felonies. As of today's date, the charges against Justice Soules await disposition.

The Commission renders no comment on the merits of the criminal charges against Justice Soules and recognizes that he, as any defendant, is entitled to the presumption of innocence with respect to those charges. At

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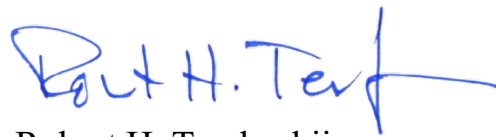
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the same time, the Commission believes that public confidence in the integrity of the judiciary, the courts and the administration of justice would be undermined were Justice Soules to exercise the powers of judicial office in one court while contemporaneously defending against serious charges pending against him in another court.

The Commission therefore recommends that, consistent with the Court's precedents, and as authorized by the Constitution and the Judiciary Law, Justice Soules remain suspended from exercising the powers of judicial office until the criminal charges against him are resolved.

The Commission notes that, while the filing of felony charges against a judge or justice in this state is rare, it has been the Court's general practice in such cases to suspend the defendant from judicial office, with pay, while the charges are pending. *See, Matter of Ash*, 34 NY3d 941 (2019) (judge charged in SDNY on obstruction charges); *Matter of Cicale*, 31 NY3d 996 (2018) (judge charged in NY with burglary); *Matter of Winchester*, 29 NY3d 1044 (2017) (judge charged in SDNY on false-statement-to-lender and obstruction charges); *Matter of Barto*, 23 NY3d 1032 (2014) (judge charged in NY *inter alia* with larceny and falsifying business records); *Matter of Apple*, 19 NY3d 1045 (2012) (judge charged in NY with felony DWI); *Matter of Anderson*, 11 NY3d 894 (2008) (judge charged in NY with felony campaign-finance charges). Upon a guilty plea or conviction, the Court has continued the suspension, without pay, until such time as the judge resigned or was removed from office as a matter of law. *See, Matter of Ash*, 37 NY3d 1153 (2022); *Matter of Cicale*, 34 NY3d 940 (2019); *Matter of Winchester*, 29 NY3d 1121 (2017).

Very truly yours,



Robert H. Tembeckjian

cc: Hon. Mitchell Q. Soules, Jr.
Judges of the Court of Appeals (via Ms. LeCours)
Hon. Joseph A. Zayas, Chief Administrative Judge